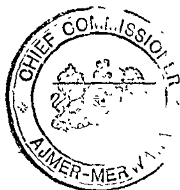
GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE CODE OF CRIMINAL PROCEDURE, 1898
(ACT V OF 1898.)

AS MODIFIED UP TO 1st SEPTEMBER 1923.



CALCUTTA GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1925

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STATEMENT OF REPEALS AND AMENDMENTS.

Section 1 amended, Act XXXVIII of 1920, s 2 and Sch I
Section 2 repealed, Act X of 1914, s 3 and Sch II
Section 4 amended, Act XIII of 1916, s 2 and Sch
amended, Act XVIII of 1919, s 2 and Schs I and II
repealed in part, Act XVIII of 1919, s 3 and Sch. II.
amended, Act XI of 1923, s 2 and Sch I.
repealed in part, Act XI of 1923, s 3 and Sch II.
amended, Act XII of 1923, s 2.
amended, Act XXXV of 1923, s 2.
Section 7 amended, Act XXXVIII of 1920, s. 2 and Sch I
Section 10 amended, Act XVIII of 1923, s. 2.
Section 14 amended, Act XXXVIII of 1920, s 2 and Sch. I.
Section 18 amended, Act XVIII of 1923, s. 3
Section 21 amended, Act XVIII of 1923, s 4.
Section 22 substituted, Act XXXVIII of 1920, s 2 and Sch I.
amended, Act XII of 1923, s 3
Sections 23 and 24 omitted, Act XII of 1923, s 4.
Section 25 amended, Act VI of 1900, s 47 and Sch. I.
Section 27 amended, Act XXXVIII of 1920, s 2 and Sch. I.
Section 29 amended, Act XII of 1923, s. 5.
amended, Act XVIII of 1923, s 5
Section 29A inserted, Act XII of 1923, s. 6.
Section 29B inserted, Act XVIII of 1923, s 6.
Section 32 repealed in part, Act IV of 1909, s. 8 and Sch.
Section 34A inserted, Act XII of 1923, s. 7.
Section 35 amended, Act XVIII of 1923, s 7.
Section 40 amended, Act XVIII of 1923, s. 8.
Section 45 amended, Act XVIII of 1923, s 9.
Section 54 repealed in part, Bom. Act IV of 1902, s 2 (*1*) and Sch. A.
amended, Act XVIII of 1923, s. 10.
Section 55 repealed in part, Bom. Act IV of 1902, s. 2 (*1*) and Sch. A.
Section 56 repealed in part, Bom Act IV of 1902, s. 2 (*1*) and Sch. A.
amended, Act XVIII of 1923, s. 11.
Section 59 amended, Act XVIII of 1923, s. 12.
Section 84 repealed in part, Bom. Act IV of 1902, s. 2 (*1*) and Sch. *A*.
Section 88 amended, Act XVIII of 1923, s. 13.
Sections 99A to 99G inserted, Act XIV of 1922, s. 5 and Sch. III.
Section 101 amended, Act XIV of 1922, s. 5 and Sch. III.
Section 103 amended, Act XVIII of 1923, s. 14.
Section 106 amended, Act XVIII of 1923, s. 15.
Section 107 amended, Act XVIII of 1923, s. 16.
Section 108 amended, Act XVIII of 1923, s. 17.
Section 110 amended, Act XVIII of 1923, s. 18.
Section 111 omitted, Act XII of 1923, s. 8.

STATEMENT OF REPEALS AND AMENDMENTS.

SECTION 1 AMENDED, ACT XXXVIII OF 1920, S 2 AND SCH. I
SECTION 2 REPEALED, ACT X OF 1914, S 3 AND SCH. II.
SECTION 4 AMENDED, ACT XIII OF 1916, S 2 AND SCH
AMENDED, ACT XVIII OF 1919, S 2 AND SCHS I AND II.
REPEALED IN PART, ACT XVIII OF 1919, S. 3 AND SCH. II.
AMENDED, ACT XI OF 1923, S 2 AND SCH. I.
REPEALED IN PART, ACT XI OF 1923, S 3 AND SCH II.
AMENDED, ACT XII OF 1923, S 2.
AMENDED, ACT XXXV OF 1923, S. 2
SECTION 7 AMENDED, ACT XXXVIII OF 1920, S. 2 AND SCH. I.
SECTION 10 AMENDED, ACT XVIII OF 1923, S. 2.
SECTION 14 AMENDED, ACT XXXVIII OF 1920, S. 2 AND SCH. I.
SECTION 18 AMENDED, ACT XVIII OF 1923, S. 3
SECTION 21 AMENDED, ACT XVIII OF 1923, S. 4.
SECTION 22 SUBSTITUTED, ACT XXXVIII OF 1920, S. 2 AND SCH. I.
AMENDED, ACT XII OF 1923, S 3.
SECTIONS 23 AND 24 OMITTED, ACT XII OF 1923, S 4.
SECTION 25 AMENDED, ACT VI OF 1900, S 47 AND SCH. I.
SECTION 27 AMENDED, ACT XXXVIII OF 1920, S 2 AND SCH. I.
SECTION 29 AMENDED, ACT XII OF 1923, S. 5.
AMENDED, ACT XVIII OF 1923, S. 5.
SECTION 29A INSERTED, ACT XII OF 1923, S. 6.
SECTION 29B INSERTED, ACT XVIII OF 1923, S 6.
SECTION 32 REPEALED IN PART, ACT IV OF 1909, S. 8 AND SCH.
SECTION 34A INSERTED, ACT XII OF 1923, S 7.
SECTION 35 AMENDED, ACT XVIII OF 1923, S. 7.
SECTION 40 AMENDED, ACT XVIII OF 1923, S 8.
SECTION 45 AMENDED, ACT XVIII OF 1923, S. 9.
SECTION 54 REPEALED IN PART, BOM. ACT IV OF 1902, S 2 (1) AND SCH. A.
AMENDED, ACT XVIII OF 1923, S 10.
SECTION 55 REPEALED IN PART, BOM. ACT IV OF 1902, S. 2 (1) AND SCH. A.
SECTION 56 REPEALED IN PART, BOM ACT IV OF 1902, S. 2 (1) AND SCH. A.
AMENDED, ACT XVIII OF 1923, S. 11.
SECTION 59 AMENDED, ACT XVIII OF 1923, S. 12.
SECTION 84 REPEALED IN PART, BOM. ACT IV OF 1902, S. 2 (1) AND SCH. A.
SECTION 88 AMENDED, ACT XVIII OF 1923, S. 13.
SECTIONS 99A TO 99G INSERTED, ACT XIV OF 1922, S. 5 AND SCH. III.
SECTION 101 AMENDED, ACT XIV OF 1922, S. 5 AND SCH. III.
SECTION 103 AMENDED, ACT XVIII OF 1923, S. 14.
SECTION 106 AMENDED, ACT XVIII OF 1923, S 15.
SECTION 107 AMENDED, ACT XVIII OF 1923, S. 16.
SECTION 108 AMENDED, ACT XVIII OF 1923, S. 17.
SECTION 110 AMENDED, ACT XVIII OF 1923, S. 18.
SECTION 111 OMITTED, ACT XII OF 1923, S. 8.

Section 214 omitted, Act XII of 1923, s. 10.
Section 215 amended, Act XII of 1923, s. 11
amended, Act XVIII of 1923, s. 59.
Section 219 amended, Act XVIII of 1923, s. 60
Section 221 amended, Act XVIII of 1923, s. 61
Section 234 amended, Act XVIII of 1923, s. 62
Section 237 repealed in part, Act XVIII of 1923, s. 63
Section 238 amended, Act XVIII of 1923, s. 64
Section 239 substituted, Act XVIII of 1923, s. 65.
Section 243 amended, Act XVIII of 1923, s. 66.
Section 244 amended, Act XVIII of 1923, s. 67.
Section 245 amended, Act XVIII of 1923, s. 68.
Section 250 amended and repealed in part, Act XVIII of 1923, s. 69
Section 252 amended, Act XVIII of 1923, s. 70.
Section 255A inserted, Act XVIII of 1923, s. 71.
Section 256 amended, Act XVIII of 1923, s. 72.
Section 258 amended, Act XVIII of 1923, s. 73
Section 259 amended, Act XVIII of 1923, s. 74.
Section 260 amended, Act I of 1903, Pt. II, Sch. II.
Section 261 amended, Act XVIII of 1923, s. 75
Section 266 amended, Act XIII of 1916, s. 2 and Sch.
repealed in part, Act XVIII of 1919, s. 3 and Sch. II.
repealed in part, Act XI of 1923, s. 3 and Sch. II.
amended, Act XII of 1923, s. 12.
amended, Act XVIII of 1923, s. 76
Section 267 amended, Act XIII of 1916, s. 2 and Sch.
Section 269 amended, Act XXXVIII of 1920, s. 2 and Sch I.
Section 274 amended, Act XII of 1923, s. 13.
Section 275 substituted, Act XII of 1923, s. 14
Section 276 amended, Act XVIII of 1923, s. 77.
Section 284 amended, Act XII of 1923, s. 15.
Section 284A inserted, Act XII of 1923, s. 16.
Section 285A and heading inserted, Act XII of 1923, s. 17.
Section 288 amended, Act XVIII of 1923, s. 78.
Section 292 substituted, Act XVIII of 1923, s. 79.
Section 306 amended, Act XVIII of 1923, s. 80.
Section 307 amended, Act XVIII of 1923, s. 81.
Section 309 amended, Act XVIII of 1923, s. 82
Section 310 substituted, Act XVIII of 1923, s. 83.
Section 312 substituted, Act XII of 1923, s. 18.
Section 313 amended, Act XXXVIII of 1920, s. 2 and Sch. I
Section 315 amended, Act XVIII of 1923, s. 84.
Section 316 amended, Act XVIII of 1923, s. 85
Section 326 amended, Act XII of 1923, s. 19.
Section 336 omitted, Act XII of 1923, s. 20.
Section 337 amended and repealed in part, Act XVIII of 1923, s. 86.
Section 339 amended, Act XVIII of 1923, s. 87.
Section 339A inserted, Act XVIII of 1923, s. 88.
Section 340 substituted, Act XVIII of 1923, s. 89

Section 345 amended, Act XVIII of 1923, s. 90.
Section 347 amended, Act XVIII of 1923, s. 91.
Section 348 amended, Act XVIII of 1923, s. 92.
Section 349 amended, Act XVIII of 1923, s. 93.
Section 350 amended, Act XVIII of 1923, s. 94.
Section 350A inserted, Act XVIII of 1923, s. 95.
Section 356 amended, Act XVIII of 1923, s. 96.
Section 362 amended, Act XVIII of 1923, s. 97.
Section 364 repealed in part, Act XVIII of 1919, s. 3 and Sch. II.
repealed in part, Act XI of 1923, s. 3 and Sch. II.
amended, Act XXXVII of 1923, s. 2.
Section 365 amended, Act VI of 1900, s. 47 and Sch. I.
repealed in part, Act XVIII of 1919, s. 3 and Sch. II.
repealed in part, Act XI of 1923, s. 3 and Sch. II.
amended, Act XVIII of 1923, s. 99.
Section 367 amended, Act XVIII of 1923, s. 100.
Section 369 amended, Act XVIII of 1923, s. 101.
Section 386 substituted, Act XVIII of 1923, s. 102.
Section 387 amended, Act XVIII of 1923, s. 103.
Section 388 substituted, Act XXXVII of 1923, s. 3.
Section 390 amended, Act XII of 1923, s. 21.
Section 391 amended, Act XII of 1923, s. 22.
Section 392 amended, Act IV of 1909, s. 7.
Section 395 amended, Act XVIII of 1923, s 105.
Section 397 amended, Act XVIII of 1923, s 106.
Section 401 amended, Act XVIII of 1923, s. 107.
Section 402 amended, Act XVIII of 1923, s. 108.
Section 406 substituted, Act XVIII of 1923, s. 109.
Section 406A inserted, Act XVIII of 1923, s. 110.
Section 407 amended, Act XVIII of 1923, s. 111.
Section 408 repealed in part, Act XII of 1923, s. 23.
amended, Act XVIII of 1923, s. 112.
Section 409 amended, Act XVIII of 1923, s. 113.
Section 413 amended, Act XII of 1923, s. 24.
Section 414 amended, Act XII of 1923, s. 25.
Section 415A inserted, Act XVIII of 1923, s. 114.
Section 416 omitted, Act XII of 1923, s. 26
Section 418 amended, Act XVIII of 1923, s 115.
Section 435 amended and repealed in part, Act XVIII of 1923, s. 116.
Section 436 renumbered, Act XVIII of 1923, s. 117.
Section 437 renumbered and amended, Act XVIII of 1923, s. 117.
Section 438 amended, Act XVIII of 1923, s. 118.
Section 439 amended, Act XVIII of 1923, s. 119.
Sections 443 to 463 (Ch. XXXIII) substituted, Act XII of 1923, s. 27
Section 464 amended, Act XVIII of 1923, s. 120.
Section 465 amended, Act XVIII of 1923, s. 121.
Section 466 amended, Act XVIII of 1923, s. 122.
Section 468 amended, Act XVIII of 1923, s. 123.

SECTION 471 REPEALED IN PART, ACT IV OF 1912
REPEALED IN PART, ACT X OF 1914, s 3 AND SCH. II.
AMENDED, ACT XVIII OF 1923, s 124.
SECTION 472 REPEALED, ACT IV OF 1912, s. 101 AND SCH II
SECTION 473 AMENDED, ACT XVIII OF 1923, s. 125.
SECTION 474 AMENDED, ACT XVIII OF 1923, s. 126
SECTION 475 SUBSTITUTED, ACT XVIII OF 1923, s. 127
SECTION 476 SUBSTITUTED, ACT XVIII OF 1923, s 128.
SECTION 477 REPEALED, ACT XVIII OF 1923, s 129.
SECTION 478 AMENDED, ACT XII OF 1923, s. 28
SECTION 480 AMENDED, ACT XII OF 1923, s 29
SECTION 484 AMENDED, ACT X OF 1914, s 2 AND SCH. I.
SECTION 487 REPEALED IN PART, ACT VI OF 1900, s. 48 AND SCH. II.
AMENDED, ACT XVIII OF 1923, s. 130
SECTION 488 AMENDED AND REPEALED IN PART, ACT XVIII OF 1923, s. 131
SECTION 489 AMENDED, ACT XVIII OF 1923, s 132.
SECTION 491 AMENDED, ACT XII OF 1923, s 30.
SECTION 491A INSERTED, ACT XII OF 1923, s 31.
SECTION 492 AMENDED, ACT XVIII OF 1923, s. 133
SECTION 494 AMENDED, ACT XVIII OF 1923, s. 134
SECTION 495 AMENDED, ACT XXXVIII OF 1920, s 2 AND SCH I.
SECTION 496 AMENDED, ACT XVIII OF 1923, s. 135
SECTION 497 AMENDED, ACT XVIII OF 1923, s. 136
SECTION 504 AMENDED, ACT XVIII OF 1923, s 137.
SECTION 505 AMENDED, ACT XVIII OF 1923, s. 138
SECTION 514 AMENDED, ACT XVIII OF 1923, s 139.
SECTIONS 514A AND 514B INSERTED, ACT XVIII OF 1923, s. 140.
SECTION 516A INSERTED, ACT XVIII OF 1923, s 141
SECTION 517 AMENDED, ACT XVIII OF 1923, s. 142
SECTION 522 AMENDED, ACT XVIII OF 1923, s 143
SECTION 525 AMENDED, ACT XVIII OF 1923, s. 144.
SECTION 526 AMENDED, ACT XVIII OF 1923, s 145.
SECTION 526A INSERTED, ACT XII OF 1923, s 32.
SECTION 527 AMENDED, ACT XVIII OF 1923, s. 146.
SECTION 528 AMENDED, ACT XVIII OF 1923, s. 147.
SECTIONS 528A TO 528D (CH. XLIV-A) INSERTED, ACT XII OF 1923, s. 33
SECTION 534 SUBSTITUTED, ACT XII OF 1923, s 34.
SECTION 537 AMENDED, ACT XVIII OF 1923, s 148.
SECTION 538 AMENDED, ACT XVIII OF 1923, s 149.
SECTIONS 539A AND 539B INSERTED, ACT XVIII OF 1923, s 150.
SECTION 540A INSERTED, ACT XVIII OF 1923, s. 151.
SECTION 544 AMENDED, ACT XXXVIII OF 1920, s. 2 AND SCH. I.
SECTION 545 AMENDED, ACT XVIII OF 1923, s. 152.
SECTION 546A INSERTED, ACT XVIII OF 1923, s. 153.
SECTION 547 AMENDED, ACT XVIII OF 1923, s. 154.
SECTION 555 AMENDED, ACT I OF 1903, PT. II, SCH. II.
AMENDED, ACT XIII OF 1916, s. 2 AND SCH.
SECTION 559 SUBSTITUTED, ACT XVIII OF 1923, s. 155.
SECTION 561A INSERTED, ACT XVIII OF 1923, s. 156.

SECTION 562 SUBSTITUTED, ACT XVIII OF 1923, s. 157.
AMENDED, ACT XXXVII OF 1923, s. 4.
SECTION 565 SUBSTITUTED, ACT XVIII OF 1923, s. 158.
SCHEDULE I REPEALED, ACT X OF 1914, s. 3 AND SCH. II
SCHEDULE II AMENDED, ACT XII OF 1899, s. 3.
AMENDED, ACT I OF 1903, PT. II, SCH. II.
AMENDED, ACT VIII OF 1913, s. 6 AND SCH.
AMENDED, ACT XXXIX OF 1920, s. 3
AMENDED, ACT XVIII OF 1923, s. 159.
SCHEDULE III AMENDED, ACT XVIII OF 1923, s. 160.
SCHEDULE IV REPEALED IN PART, ACT IV OF 1909, s. 8 AND SCH
AMENDED, ACT XVIII OF 1923, s. 161.
SCHEDULE V AMENDED, ACT I OF 1903, PT. II, SCH. II.
AMENDED, ACT XVIII OF 1923, s. 162.
AMENDED, ACT XXXVII OF 1923, s. 5.

Repeals in Bombay Town only.

CHAPTER IX
SECTION 83 (2) AND SS. 85, 86 AND 155 } REP. BOM. ACT IV OF 1902, s. 2 (1) AND SCH. A.

THE CODE OF CRIMINAL PROCEDURE, 1898.

CONTENTS.

PART I.

PRELIMINARY.

CHAPTER I.

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

B.—Territorial Divisions.

SECTIONS.

C.—Courts and Offices outside the Presidency-towns.

D.—Courts of Presidency Magistrates.

E.—Justices of the Peace.

F.—Suspension and Removal.

CHAPTER III.

Powers of Courts

A.—Description of Offences cognizable by each Court.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

Of Aid and Information to the Magistrates, the Police and Persons making Arrests.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

B.—Arrest without Warrant.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

SECTIONS.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

SECTIONS.

125. Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.
126. Discharge of sureties.
126A. Security for unexpired period of bond.

CHAPTER IX.

UNLAWFUL ASSEMBLIES.

127. Assembly to disperse on command of Magistrate or police-officer.
128. Use of civil force to disperse.
129. Use of military force.
130. Duty of officer commanding troops required by Magistrate to disperse assembly.
131. Power of commissioned military officers to disperse assembly.
132. Protection against prosecution for acts done under this Chapter.

CHAPTER X.

PUBLIC NUISANCES.

133. *Conditional order for removal of nuisance.*
134. Service or notification of order.
135. Person to whom order is addressed to obey, or show cause or claim jury.
136. Consequence of his failing to do so.
137. Procedure where he appears to show cause.
138. Procedure where he claims jury.
139. Procedure where jury finds Magistrate's order to be reasonable.
139A. Procedure where existence of public right is denied.
140. Procedure on order being made absolute.
Consequences of disobedience to order.
141. Procedure on failure to appoint jury or omission to return verdict.
142. Injunction pending inquiry.
143. Magistrate may prohibit repetition or continuance of public nuisance.

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

144. Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

CHAPTER XII.

Disputes as to Immoveable Property.

CHAPTER XIII.

Preventive Action of the Police.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

PART VI.

PROCEEDINGS IN PROSECUTIONS

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

CHAPTER XIX.

OF THE CHARGE.

CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

CHAPTER XXII.

OF SUMMARY TRIALS.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURT AND COURTS OF SESSION.

A.—Preliminary.

B —Commencement of Proceedings.

C.—Choosing a Jury.

SECTIONS.

L.—Special Provisions for High Courts.

CHAPTER XXIV.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

CHAPTER XXVI.

OF THE JUDGMENT.

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

SECTIONS.

L.—Special Provisions for High Courts.

333. Power of Advocate General to stay prosecution.
334. Time of holding sittings.
335. Place of holding sittings.
Notice of sittings.
336. *Omitted.*

CHAPTER XXIV.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

337. Tender of pardon to accomplice.
338. Power to direct tender of pardon.
339. Commitment of person to whom pardon has been tendered.
339A. Procedure in trial of person under section 339.
340 Right of person against whom proceedings are instituted to be defended and his competency to be a witness.
341. Procedure where accused does not understand proceedings.
342. Power to examine the accused.
343. No influence to be used to induce disclosures.
344. Power to postpone or adjourn proceedings.
Remand.
Reasonable cause for remand.
345. Compounding offences.
346. Procedure of Provincial Magistrate in cases which he cannot dispose of.
347. Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.
348. Trial of persons previously convicted of offences against coinage, stamp-law or property.
349. Procedure when Magistrate cannot pass sentence sufficiently severe.
350. Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.
350A. Changes in constitution of Benches.
351. Detention of offenders attending Court.
352. Courts to be open.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

353. Evidence to be taken in presence of accused.
354. Manner of recording evidence outside presidency-towns.

CHAPTER XXVI.

OF THE JUDGMENT.

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

CHAPTER XXVIII.

OF EXECUTION.

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

CHAPTER XXX.

OF PREVIOUS ACQUITTALS OR CONVICTIONS.

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.

CHAPTER XXXII.

OF REFERENCE AND REVISION.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

SPECIAL PROVISIONS RELATING TO CASES IN WHICH EUROPEAN AND INDIAN BRITISH SUBJECTS ARE CONCERNED.

CHAPTER XXXIV

LUNATICS.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A *HABEAS CORPUS*.

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

CHAPTER XXXIX.

Of Bail.

CHAPTER XL.

Of Commissions for the Examination of Witnesses.

CHAPTER XLI.

Special Rules of Evidence.

CHAPTER XLII.

Provisions as to Bonds.

CHAPTER XLIII.

OF THE DISPOSAL OF PROPERTY.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES.

CHAPTER XLIVA.

SUPPLEMENTARY PROVISIONS RELATING TO EUROPEAN AND INDIAN BRITISH SUBJECTS AND OTHERS.

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS.

CHAPTER XLVI.

MISCELLANEOUS.

SECTIONS.

ACT No. V OF 1898.[1]

[22nd March, 1898.]

An Act to consolidate and amend the law relating to Criminal Procedure.

(As modified up to 1st September, 1923.)

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure;

It is hereby enacted as follows:—

PART I.

PRELIMINARY.

CHAPTER I.

1. (1) This Act may be called the Code of Criminal Procedure, 1898; and it shall come into force on the first day of July, 1898. *Short title. Commencement.*

(2) It extends to the whole of British India; but, in the absence of any specific provision to the contrary, nothing herein contained shall *Extent.*

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 363; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 19, and for Proceedings in Council, *see ibid*, 1897, Pt. VI, pp. 238 and 254, and *ibid*, 1898, pp. 22, 101 and 175.

This Act has been declared, under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), B. and O. Code, to be in force (with modifications) in the Santhal Parganas; as to the modifications, *see* the Santhal Parganas Justice Regulation, 1893 (V of 1893), s. 4, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), B. and O. Code.

It has been extended, under s. 3 of the Angul Laws Regulation, 1913 (III of 1913), B. and O. Code, to the District of Angul.

It has been declared in force in Upper Burma (except the Shan States, as to which *see* further) subject to certain modifications by the Burma Laws Act, 1898 (XIII of 1898), Bur. Code; as to the modifications, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), as amended by Act XIII of 1898, Bur. Code.

It has been declared in force in Arakan Hill District, by s. 2 of the Arakan Hill *District Laws Regulation, 1916 (I of 1916).*

It has been declared in force in the Chittagong Hill tracts (with a reservation as to cases tried by certain persons) by s. 4 of the Chittagong Hill tracts Regulation 1900 (I of 1900), Ben. Code.

It has been declared in force in British Baluchistan by s. 3 of the British Baluchistan Laws Regulation, 1913 (II of 1913), Bal. Code.

It has ceased to be in force, by notification under s. 2 of the Assam Frontier Tracts Regulation, 1880 (II of 1880), Assam Code, in the following places, namely:—

The Gáro Hills, the Khási and Jaintiá Hills, the Naga Hills, the North Cachar Sub-division of the Cachar District, the Mikir Hill tracts in the Nowgong District, the Dibrugarh Frontier Tracts in the Lakhimpur District, and the Lushai Hills—*see* Assam Gazette, 1898, Pt. II, p. 783, and Assam Code, Vol. II, Appendix II C.

As to its application in (1) certain districts on the Sindh Frontier, *see* the Sindh Frontier Regulation, 1872 (V of 1872), s. 11, and the Sindh Frontier Regulation, 1892 (III of 1892), Bom. Code, (2) the Andaman and Nicobar Islands *see* Regulation III of 1876, s. 13, as amended by Regulation I of 1884, s. 3.

affect any special or local law now in force, or any special jurisdiction or power[1] conferred, or any special form of procedure prescribed, by any other law for the time being in force,[2] or shall apply to—

(a) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;[3]

(b) heads of villages in the Presidency of Fort St. George;[4] or

(c) village police-officers in the Presidency of Bombay:[5]

Provided that the Local Government may, if it thinks fit, [6] * * * * by notification in the official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

2. [*Repeal of enactments, notifications, etc., under repealed Acts. Pending cases.*] *Repealed by the Repealing and Amending Act, 1914 (X of 1914).*

References to Code of Criminal Procedure

3. (*1*) In every enactment passed before this Code comes into force in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of

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It has been declared in force, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), in the Scheduled Districts in Ganjam and Vizagapatam—*see* Fort St George Gazette, 1898, Pt I, p. 306, and Gazette of India, 1898, Pt I, p 869; and by notification under the same section and section 5A in the following other Scheduled Districts, namely :—

the Districts of Házaribágh, Lohárdaga (now the Ranchi District—*see* Calcutta Gazette, 1899, Pt I, p. 44), Mánbhum and Palamau and in Pargana Dhálbhum and the Kolhan in the Singbhum District—*see* Calcutta Gazette, 1898, Pt. I, p 714, and Gazette of India, 1899, Pt. I, p. 779; and in the Pargana of Manpur—*see* Gazette of India, 1899, Pt. I, p 419. The powers of the Local Government were at the same time conferred on the Agent, Governor General, Central India, and also those of a High Court for the purposes of the Code

It was extended to the Shan States, by the Shan States Laws and Criminal Justice Order, 1895, as amended by notification No 29, dated 19th December 1908, Bur. Code. [illegible] -lared, by rotification under the p [illegible] 895 (I of 1895), to be applicable tc [illegible] *proviso to s 3 (2) of the Chin* H [illegible] of Regulation II of 1910, it has been declared to be applicable to Chins in the Chin Hills with certain modifications—*see* Burma Gazette, 1922, Pt I, pp 227 and 228; *see* also Bur. Code.

[1] As to power of Governor General in Council to make rules conferring powers of original criminal jurisdiction on Indian Marine Courts, *see* the Indian Marine Courts Act, 1887 (XIV of 1887), s 70 (*2*), General Acts, Vol. IV.

[2] *See* for example the Indian Army Act, 1911 (VIII of 1911), General Acts, Vol. VII.

[3] As to Calcutta, *see* the Calcutta Police Act, 1866 (Ben. Act IV of 1866), Ben. Code; as to Madras, *see* the Madras City Police Act, 1888 (Mad Act III of 1888), Mad. Code; as to Bombay, *see* the City of Bombay Police Act, 1902 (Bom Act IV of 1902), Bom Code.

[4] *See* Mad. Regulation XI of 1816, Mad Code, and Mad Regulation IV of 1821, *ibid.*

[5] *See* the Bombay Village Police Act, 1867 (Bom Act VIII of 1867), Bom Code

[6] The words "with the sanction of the Governor General in Council" were omitted by s 2 and Sch I of the Devolution Act, 1920 (XXXVIII of 1920).

1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section. and other repealed enactments

(*2*) In every enactment passed before this Code comes into force the expressions " Officer exercising (or ' having ') the powers (or ' the full powers ') of a Magistrate," " Subordinate Magistrate, first class," and " Subordinate Magistrate, second class," shall respectively be deemed to mean " Magistrate of the first class," " Magistrate of the second class " and " Magistrate of the third class," the expression " Magistrate of a division of a district " shall be deemed to mean " Sub-divisional Magistrate," the expression " Magistrate of the district " shall be deemed to mean " District Magistrate," the expression " Magistrate of Police " shall be deemed to mean " Presidency Magistrate," and the expression " Joint Sessions Judge " shall mean " Additional Sessions Judge " Expressions in former Acts

4. (*1*) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:— Definitions

(*a*) " Advocate General " includes also a Government Advocate, or, where there is no Advocate General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf: "Advocate General."

(*b*) " bailable offence " means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force, and " non-bailable offence " means any other offence: "Bailable offence." "Non bailable offence."

(*c*) " charge " includes any head of charge when the charge contains more heads than one: "Charge."

[1]* * * * * *

(*e*) " Clerk of the Crown " includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown: "Clerk of the Crown."

(*f*) " cognizable offence " means an offence for, and " cognizable case " means a case in, which a police-officer, within or without the presidency-towns, may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant: "Cognizable offence." "Cognizable case."

(*g*) " Commissioner of Police " includes a Deputy Commissioner of Police: "Commissioner of Police."

(*h*) " complaint " means the allegation made orally or in writing to a Magistrate, with a view to his taking action under "Complaint."

[1] Clause (d) was repealed by s. 3 and Sch. II of the Repealing and Amending Act 1923 (XI of 1923)

affect any special or local law now in force, or any special jurisdiction or power[1] conferred, or any special form of procedure prescribed, by any other law for the time being in force,[2] or shall apply to—

(*a*) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;[3]

(*b*) heads of villages in the Presidency of Fort St. George;[4] or

(*c*) village police-officers in the Presidency of Bombay:[5]

Provided that the Local Government may, if it thinks fit, * * * * by notification in the official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

2. [*Repeal of enactments, notifications, etc., under repealed Acts. Pending cases.*] *Repealed by the Repealing and Amending Act, 1914 (X of 1914).*

References to Code of Criminal Procedure

3. (*1*) In every enactment passed before this Code comes into force in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of

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It has been declared in force, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), in the Scheduled Districts in Ganjam and Vizagapatam—*see* Fort St George Gazette, 1898, Pt. I, p 306, and Gazette of India, 1898, Pt I, p 869; and by notification under the same section and section 5A in the following other Scheduled Districts, namely :—

the Districts of Házaribágh, Lohárdaga (now the Ranchi District—*see* Calcutta Gazette, 1899, Pt I, p. 44), Mánbhum and Palamau and in Pargana Dhálbhum and the Kolhan in the Singbhum District—*see* Calcutta Gazette, 1898, Pt. I, p 714, and Gazette of India, 1899, Pt. I, p. 779; and in the Pargana of Manpur—*see* Gazette of India, 1899, Pt. I, p. 419 The powers of the Local Government were at the same time conferred on the Agent, Governor General, Central India, and also those of a High Court for the purposes of the Code

It was extended to the Shan States, by the Shan States Laws and Criminal Justice Order, 1895, as amended by notification No 29, dated 19th December 1908, Bur. Code.

The Code with [illegible] d, by notification under the proviso to s 3 (2) of [illegible] (I of 1895), to be applicable to members of a hill [illegible] oviso to s 3 (2) of the Chin Hills Regulation, 1896 [illegible] Regulation II of 1910, it has been declared to be applicable to Chins in the Chin Hills with certain modifications—*see* Burma Gazette, 1922, Pt I, pp. 227 and 228; *see* also Bur. Code.

[1] As to power of Governor General in Council to make rules conferring powers of original criminal jurisdiction on Indian Marine Courts, *see* the Indian Marine Courts Act, 1887 (XIV of 1887), s 70 (2), General Acts, Vol IV.

[2] *See* for example the Indian Army Act, 1911 (VIII of 1911), General Acts, Vol. VII.

[3] As to Calcutta, *see* the Calcutta Police Act, 1866 (Ben. Act IV of 1866), Ben. Code, as to Madras, *see* the Madras City Police Act, 1888 (Mad Act III of 1888), Mad. Code; as to Bombay, *see* the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), Bom Code

[4] *See* Mad Regulation XI of 1816, Mad Code, and Mad Regulation IV of 1821, *ibid*

[5] *See* the Bombay Village Police Act, 1867 (Bom. Act VIII of 1867), Bom. Code

[6] The words "with the sanction of the Governor General in Council" were omitted by s 2 and Sch I of the Devolution Act, 1920 (XXXVIII of 1920).

1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section. and other repealed enactments

(*2*) In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate," "Subordinate Magistrate, first class," and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class" and "Magistrate of the third class," the expression "Magistrate of a division of a district" shall be deemed to mean "Sub-divisional Magistrate," the expression "Magistrate of the district" shall be deemed to mean "District Magistrate," the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate," and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge." Expressions in former Acts

4. (*1*) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:— Definitions

(*a*) "Advocate General" includes also a Government Advocate, or, where there is no Advocate General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf: "Advocate General."

(*b*) "bailable offence" means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence: "Bailable offence." "Non-bailable offence."

(*c*) "charge" includes any head of charge when the charge contains more heads than one: "Charge."

[1]* * * * * *

(*e*) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown: "Clerk of the Crown."

(*f*) "cognizable offence" means an offence for, and "cognizable case" means a case in, which a police-officer, within or without the presidency-towns, may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant: "Cognizable offence." "Cognizable case."

(*g*) "Commissioner of Police" includes a Deputy Commissioner of Police: "Commissioner of Police."

(*h*) "complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action under "Complaint."

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[1] Clause (d) was repealed by s. 3 and Sch. II of the Repealing and Amending Act 1923 (XI of 1923).

this Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a police officer:

"European British subject."

[1][(*i*) "European British subject" means—

(*i*) any subject of His Majesty of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or

(*ii*) any subject of His Majesty who is the child or grand-child of any such person by legitimate descent:]

"High Court."

(*j*) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects,[2] the High Courts of Judicature at Fort William, Madras [3]* Bombay, [4][Allahabad [5]* Patna] [6][[7]* Lahore] [[8]and Rangoon] [9][and the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind]: in other cases "High Court" means the highest Court of criminal appeal or revision for any local area; or, where no such Court is established under any law for the time being in force, such officer as the Governor General in Council may appoint in this behalf:[10]

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[1] This clause was substituted by s 2 (*1*) of the Criminal Law Amendment Act, 1923 (XII of 1923).

[2] *See* Chapter XXIII, *infra.*

[3] The word "and" was omitted by s 2 and Schedule of the Amending Act, 1916 (XIII of 1916), General Acts, Vol VIII

[4] These words were substituted for the words "the High Court of Judicature for the North-Western Provinces," by *ibid.*

[5] The word "and" was omitted by the Repealing and Amending Act, 1919 (XVIII of 1919).

[6] The words "and Lahore" were substituted for the words "the Chief Court of the Punjab" by *ibid.*

[7] The word "and" was omitted by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (XI of 1923)

[8] These words were substituted for the words "the Chief Court of Lower Burma" by *ibid*

[9] These words were inserted by s 2 (*2*) of the Criminal Law Amendment Act, 1923 (XII of 1923).

[10] As to (1) Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art 1, as amended by the Burma Laws Act, 1898 (XIII of 1898), Bur. Code; (2) the Santhal P[illegible] Justice Regulation, 1893 (V of 1893), s 4, as amende[illegible]d Laws Regulation, 1899 (III of 1899), B and [illegible] 38 of the Ajmere Courts Regulation, 1877 (I of [illegible] of the Coorg Courts Regulation, 1901 (I of 1901) [illegible]h Courts Act, 1891 (XIV of 1891), as amended [illegible] (6) the North-West Frontier Province, *see* s 6 [illegible] Province Law and Justice Regulation, 1901 (VI [illegible] (7) Baluchistan, *see* art. 6 (1) (ii) of the schedu[illegible] Justice Regulation, 1896 (VIII of 1896), Bal Code.

(*k*) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court: "Inquiry."

(*l*) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf: "Investigation."

(*m*) "judicial proceeding" [1]includes any proceeding in the course of which evidence is or may be legally taken on oath: "Judicial proceeding."

(*n*) "non-cognizable offence"[2] means an offence for, and "non-cognizable case" means a case in, which a police-officer, within or without a presidency-town, may not arrest without warrant: "Non-cognizable offence." "Non cognizable case."

(*o*) "offence" means any act or omission made punishable by any law for the time being in force; "Offence."

it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871;[2]

(*p*) "officer in charge of a police-station" [3]includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the Local Government so directs, any other police-officer so present: "Officer in charge of a police-station."

(*q*) "place" includes also a house, building, tent and vessel: "Place."

(*r*) "pleader," used with reference to any proceeding in any Court, means a pleader [4][or a mukhtar] authorized under any law[5] for the time being in force to practice in such "Pleader."

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[1] *Cf.* the Indian Penal Code (Act XLV of 1860), s. 193, *explanation* 1, General Acts, Vol. I.

[2] General Acts, Vol. II.

[3] *Cf.* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, arts. 6 and 7, Bur. Code.

[4] These words were inserted by s. 2 of the Code of Criminal Procedure (Further Amendment) Act, 1923 (XXXV of 1923).

[5] *See* the Legal Practitioners Act, 1846 (I of 1846); the Legal Practitioners Act, 1853 (XX of 1853), the Legal Practitioners Act, 1879 (XVIII of 1879), the Legal Practitioners Act, 1884 (IX of 1884); and the Legal Practitioners (Amendment) Act, 1908 (I of 1908).

In British Baluchistan, *see* s. 20 (*1*) (*c*) of the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Bal. Code; in the North-West Frontier Province, *see* s. 9 of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N.-W. F. Code; *see also* rules issued under s. 9 in Gazette of India, 1902, Pt. II, p. 5.

Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorized, and (2) any [1]* * * other person appointed with the permission of the Court to act in such proceeding:

"Police-station." (*s*) "police-station" means any post or place declared, generally or specially, by the Local Government to be a police-station, and includes any local area specified by the Local Government in this behalf:

"Public Prosecutor." (*t*) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction:

"Sub-division" (*u*) "sub-division" means a sub-division of a district:[2]

"Summons-case." (*v*) "summons-case" means a case relating to an offence, and not being a warrant-case: and

"Warrant-case" (*w*) "warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months.

Words referring to acts (*2*) Words which refer to acts done, extend also to illegal omissions; and

Words to have same meaning as in Indian Penal Code. all words and expressions used herein and defined in the Indian Penal Code,[2] and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code. XLV of

Trial of offences under Penal Code. 5. (*1*) All offences under the Indian Penal Code[3] shall be investigated, inquired into, tried and otherwise dealt with according to the provisions hereinafter contained. XLV of

Trial of offences against other laws. (*2*) All offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

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[1] The words "mukhtar or" were omitted by s 2 of the Code of Criminal Procedure (Further Amendment) Act, 1923 (XXXV of 1923)

[2] *See* s 8, *infra.*

[3] General Acts, Vol. I.

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES

A.—Classes of Criminal Courts.

[1]6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely:— Classes of Criminal Courts.

I.—Courts of Session:

II.—Presidency Magistrates:

III.—Magistrates of the first class:

IV.—Magistrates of the second class:

V.—Magistrates of the third class.

B.—Territorial Divisions.

[2]7. (*1*) Every province (excluding the presidency-towns) shall be a [illegible] sessions division, or shall consist of sessions divisions: and every sessions [illegible] division shall, for the purposes of this Code, be a district or consist of districts.

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[1] In places where the Frontier Crimes Regulation, 1901, is in force, cases may be [illegible] by a Council of Elders. *See* the Frontier Crimes Regulation, 1901 (III of 1901) [illegible] P. and N.-W. F. Code, *see* also s. 13 of the same Regulation for executing [illegible] passed on the finding of a Council of Elders. For bar of second trial [illegible] these Courts, *see* same Regulation, s. 15.

[2] As to Courts of Session in Upper Burma, *see* Upper Burma C[illegible] Regulation, 1892 (V of 1892), Schedule, art. 11, Bur. Code.

(Part II.—Constitution and Powers of Criminal Courts and Offices. Chapter II.—Of the Constitution of Criminal Courts and Offices.)

Power to alter divisions and districts

(2) The Local Governments[1] may alter the limits or [2]* * * * the number of such divisions and districts.

Existing divisions and districts maintained till altered.

(3) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

Presidency-towns to be deemed districts.

(4) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.

Power to divide districts into sub-divisions.

8. (1) The Local Government[3] may divide any district outside the presidency-towns into sub-divisions, or make any portion of any such district a sub-division and may alter the limits of any sub-division.

Existing sub-divisions maintained.

(2) All existing sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

C.—Courts and Offices outside the Presidency-towns.

Court of Session.

9.[4] (1) The Local Government shall establish a Court of Session for every sessions division, and appoint a judge of such Court.

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[1] For notification dividing the districts of the North-West Frontier Province into sessions divisions, *see* Gazette of India, 1901, Pt. II, p. 1304

For notification dividing Lower Burma into sessions divisions, *see* Bur. Rules Manual.

For notification issued in the Central Provinces under this section, *see* C. P. R. and O.; in B. and O., *see* B and O. R. and O.

For notifications by the Madras Government, *see* Mad R. and O.; and by the Punjab Government, *see* Punj R. and O.

For notifications by the Government of the United Provinces, *see* U. P. R and O.

For notification declaring the Pargana of Manpur to be a sessions division and a district, *see* Gazette of India, 1913, Pt. II, p 1587.

For notification by Government of Madras declaring that the taluqs of Nagur, Albaka and Cherla shall form part of the Godaveri district and of the Bhadrachallem sub-division of that district, *see* Fort St. George Gazette, 1909, Pt. I, p. 67.

For notification by the Government of Bombay directing that the Panch Mahals District [illegible] *see* Bom. R. and O.

[illegible] be included within the limit [illegible]

[illegible] s, declaring that certain estat [illegible] the Chhattisgarh Division, *see* C P R and O

For notification by the Chief Commissioner of Assam extending the limits of the sessions division of the Assam Valley Districts so as to include the tract transferred from the Naga [illegible] R and O.

[2] The words [illegible] ernor General in Council" were omitted by s 2 [illegible] (XXXVIII of 1920).

[3] For notific [illegible] and O., Bom. R and O., Bur. R. M, C. P. R and O., Mad. R and O., Punj R. and O. and U. P. R. and O

[4] [illegible] R and O., Bur. R. M, Punj R. [illegible] otifications by the Chief Commis- [illegible] e of India, 1901, Pt. II, p. 1136; [illegible] to be Sessions Judge, *see* Coorg R. and O., for the Pargana of Manpur, *see* Gazette of India, 1913, Pt. I, p. 1587.

(2) The Local Government may, by general or special order in the official Gazette,[1] direct at what place or places the Court of Session shall hold its sitting; but, until such order is made, the Courts of Session shall hold their sittings as heretofore.

(3)[2] The Local Government may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

(4) A Sessions Judge of one sessions division may be appointed by the Local Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the Local Government may direct.

(5) All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

10. (1) In every district outside the presidency-towns the Local Government shall[3] appoint a Magistrate of the first class, who shall be called the District Magistrate. District Magistrate.

(2) The Local Government may appoint any Magistrate of the first class to be an Additional District Magistrate [4]* * * * and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code [5][or under any other law for the time being in force,] as the Local Government may direct.

[6][(3) For the purposes of sections 192, sub-section (1), 407, sub-section (2) and 528, sub-sections (2) and (3), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.]

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate. Officers temporarily succeeding to vacancies in office of District Magistrate.

[7]**12.** (1) The Local Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, Subordinate Magistrates.

[1] For notifications under this sub section, *see* Ben R. and O, B and O R and O, C. P. R and O, Punj R. and O, Mad R. and O and U P R and O

[2] For notification under this clause appointing an Assistant Sessions Judge in British Baluchistan, *see* Bal. R. and O.

[3] For officers vested with the powers of a District Magistrate in Ajmere Merwara, *see* Aj. R and O; in the Pargana of Manpur, *see* Gazette of India, 1913, Pt I, p. 1587

[4] The words "[illegible]" were omitted by s 2 of the Code of Criminal [illegible] VIII of 1923)

[5] These words [illegible]

[6] This sub secti[illegible]

[7] For notificatio[illegible] this section, *see* Ben. R and O; by the Chief [illegible] Aj R. and O; by the Chief Commissioner, Coo[illegible] vernment of Burma, *see* Bur. R M.

second or third class in any district outside the presidency-towns; and the Local Government or the District Magistrate, subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Local limits of their jurisdiction.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

Power to put Magistrate in charge of sub-division.

13. (*1*) The Local Government may place any Magistrate of the first or second class in charge of a sub-division, and relieve him of the charge as occasion requires.

(2) Such Magistrates shall be called Sub-divisional Magistrates.

Delegation of powers to District Magistrate.

(3) The Local Government may delegate its powers under this section to the District Magistrate.[1]

Special Magistrates

14. (*1*) The Local Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area outside the presidency-towns.

(2) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the Local Government may by general or special order direct.

(3) [2] * * * The Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the powers conferred by sub-section (*1*).

(4) No powers shall be conferred under this section on any police-officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.[3]

[1] For delegation of such powers by the Chief Commissioner, Central Provinces, *see* C P R. and O.; by the Government of Madras, *see* Mad R. and O.

[2] The words "with the previous sanction of the Governor General in Council" were [illegible] ion Act, 1920 (XXXVIII of 1920).

[3] [illegible] any police-officer in Assam not below the g [illegible] be invested with all or any of the power [illegible] of the first, second or third class in respec [illegible] olice-officers Regulation, 1883 (II of 1883), s 4, Assam Code

As to conferment of magisterial powers on police-officers in Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art III; in the Salween and Arakan Districts, *see* the Burma Laws Act, 1898 (XIII of 1898), s 9, Bur. Code.

As to the Police on the Punjab Frontier and in the North-West Frontier Province, *see* the Punjab Frontier Police-officers Regulation, 1893 (VII of 1893), s 1, P. and N.-W. F. Code

15 [1](1) The Local Government may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the Local Government thinks fit. Benches of Magistrates.

(2) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class. Powers exerciseable by Bench in absence of special direction.

16. The Local Government may,[2] or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects:— Power to frame rules for guidance of Benches.

(*a*) the classes of cases to be tried;
(*b*) the times and places of sitting;
(*c*) the constitution of the Bench for conducting trials;
(*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.

17. (*1*) All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches; and Subordination of Magistrates and Benches to District Magistrate;

(*2*) Every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate. to Sub-divisional Magistrate.

(*3*) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges. Subordination of Assistant Sessions Judges to Sessions Judge.

(*4*) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any

[1] For notifications, *see* Mad R and O
[2] For instance of such rules, *see* Mad. R and O.; Assam R. and O., Ben. R and O.; Bur. R M.; C. P. R. and O.

urgent application by an Additional or Assistant Sessions Judge or, if there be no Additional or Assistant Judge, by the District Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application.

(5) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of Presidency Magistrates.

Appointment of Presidency Magistrates.

18. (1) The Local Government shall, from time to time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the presidency-towns, and shall appoint one of such persons to be Chief Presidency Magistrate for each such town.

(2) The powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate, or by a salaried Presidency Magistrate, or by any other Presidency Magistrate empowered by the Local Government to sit singly, or by any Bench of Presidency Magistrates.

[1][(3) A Presidency Magistrate may be appointed under this section for such term as the Local Government may, by general or special order, direct.]

[1][(4) The Local Government may appoint any person to be an Additional Chief Presidency Magistrate, and such Additional Chief Presidency Magistrate shall have all or any of the powers of a Chief Presidency Magistrate under this Code or under any other law for the time being in force, as the Local Government may direct.]

Benches

19. Any two or more of such persons may (subject to the rules made by the Chief Presidency Magistrate under the power hereinafter conferred) sit together as a Bench.

Local limits of jurisdiction.

20. Every Presidency Magistrate shall exercise jurisdiction in all places within the presidency-town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law[2] for the time being in force for the regulation of ports and port-dues.

[1] Sub sections (3) and (4) were added by s 3 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[2] See the Indian Ports Act, 1908 (XV of 1908), General Acts, Vol VI.

21. (1) Every Chief Presidency Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Presidency Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules[1] consistent with this Code to regulate— Chief Presidency Magistrate.

(a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;

(b) the times and places at which Benches of Magistrates shall sit;

(c) the constitution of such Benches;

(d) the mode of settling differences of opinion which may arise between Magistrates in session; and

(e) any other matter which could be dealt with by a District Magistrate under his general powers of control over the Magistrates subordinate to him.

(2) The Local Government may, for the purposes of this Code, [2]declare what Presidency Magistrates [3][including Additional Chief Presidency Magistrates] are subordinate to the Chief Presidency Magistrate, and may define the extent of their subordination.

E.—Justices of the Peace.

[4][22. Every Local Government, so far as regards the territories subject to its administration [5]* * * may by notification in the official Gazette appoint such [6][persons resident within British India and not being the subjects of any foreign State] as it thinks fit to be Justices of the Peace within and for the local area mentioned in such notification.] Justices of the Peace for the mufassal.

23. [*Justices of the Peace for the Presidency-towns.*] *Omitted by s. 4 of Act XII of 1923.*

24. [*Present Justices of the Peace.*] *Omitted by s. 4 of Act XII of 1923.*

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[1] For rules under this section, *see* Mad. R. and O.; Bom. R. and O. and Ben. R. and O.

[2] For notification under this sub-section affecting the Presidency Magistrates in Calcutta, *see* Ben. R. and O.

[3] These words were inserted by s. 4 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[4] Section 22 was substituted by s. 2 and Schedule I of the Devolution Act, 1920 (XXXVIII of 1920).

[5] The words and brackets "(other than the presidency-towns)" were omitted by s. 4 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[6] These words were substituted for the words "European British subjects" by *ibid.*

Ex officio Justices of the Peace

25. In virtue of their respective offices, the Governor General, Governors, Lieutenant-Governors and Chief Commissioners, the Ordinary Members of the Council of the Governor General, [1][and the Judges of the High Courts] are Justices of the Peace within and for the whole of British India, Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

F.—Suspension and Removal.

Suspension and removal of Judges and Magistrates.

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates, may be suspended or removed from office by the Local Government:

Provided that such Judges and Magistrates as now are liable to be suspended or removed from office by the Governor General in Council only shall not be suspended or removed from office by any other authority.

Suspension and removal of Justices of the Peace.

27. [2]* * * The Local Government may suspend or remove from office any Justice of the Peace appointed by it.

CHAPTER III.

POWERS OF COURTS.

A.—Description of Offences cognizable by each Court.

Offences under Penal Code.

28. Subject to the other provisions of this Code any offence under the [3]Indian Penal Code may be tried— XLV of 1860

(*a*) by the High Court, or

(*b*) by the Court of Session, or

(*c*) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

[1] These words were substituted for the words "the Judges of the High Courts and the Recorder of Rangoon" by the Lower Burma Courts Act, 1900 (VI of 1900), s 47 and Schedule I. This Act has since been repealed by the Repealing and Amending Act, 1923 (XI of 1923)

[2] The words "The Governor General in Council may suspend or remove from office any Justice of the Peace appointed by him, and" were omitted by s. 2 and Schedule I of the Devolution Act, 1920 (XXXVIII of 1920).

[3] General Acts, Vol. I.

Illustration.

A is committed to the Sessions Court on a charge of culpable homicide He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

29. (*1*) Subject to the [1][other provisions of this Code], any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court. Offences under other laws

(*2*) When no Court is so mentioned, it may be tried by the High Court or [2][subject as aforesaid] by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

[3][29A. No Magistrate of the second or third class shall inquire into or try any offence which is punishable otherwise than with fine not exceeding fifty rupees where the accused is an European British subject who claims to be tried as such.] Trial of European British subjects by second and third class Magistrates

[4][29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the Local Government to exercise the powers conferred by section 8, sub-section (*1*), of the II of 1897. [5]Reformatory Schools Act, 1897, or, in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.] Jurisdiction in the case of juveniles

30. In the territories respectively administered by the Lieutenant-Governors of the [6]Punjab[7] and Burma[7] and the Chief Commissioners of Oudh,[7] the Central Provinces,[7] Coorg and Assam,[7] in Sind, and in those parts of the other provinces in which there are Deputy Commissioners or Assistant Commissioners the Local Government may, notwithstanding Offences not punishable with death.

[1] These words were substituted for the words and figures "provisions of section 447" by s 5 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[2] These words were inserted by s. 5 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[3] Section 29A was inserted by s. 6 of the Criminal Law Amendment Act, 1923 (XII of 1923)

[4] Section 29B was inserted by s 6 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[5] General Acts, Vol IV.

[6] These territories included, at the time the Code was passed, the territories which now form the North-West Frontier Province.

[7] The Province of the Punjab, the United Provinces, the Central Provinces and the Province of Assam are now Governors' Provinces, *see* s. 46 of the Government of India Act The Province of Burma has also been made a Governor's Province, *see* Notifications No 225, dated 7th October, 1921 and No. 1192, dated 2nd January, 1923 in Gazette of India Extraordinary, 1921, p. 381 and *ibid*, 1923, p. 37.

anything contained in section 29, invest the District Magistrate or any Magistrate of the first class, with power to try as a Magistrate all offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

Sentences which High Courts and Sessions Judges may pass.

31. *(1)* A High Court may pass any sentence authorized by law.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.[1]

(3) An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years

Sentences which Magistrates may pass

32. *(1)* The Courts of Magistrates may pass the following sentences, namely:—

(a) Courts of Presidency Magistrates and of Magistrates of the first class:	Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law;[2] Fine not exceeding one thousand rupees; Whipping
(b) Courts of Magistrates of the second class:	Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law;[2] Fine not exceeding two hundred rupees; * * * * *
(c) Courts of Magistrates of the third class:	Imprisonment for a term not exceeding one month; Fine not exceeding fifty rupees.

(2) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

3* * * * * * *

Power of Magistrates to sentence to imprisonment in default of fine.

33. *(1)* The Court of any Magistrate may award such terms of imprisonment in default of payment of fine as is authorized by law in case of such default:

Proviso as to certain cases.

Provided that—

(a) the term is not in excess of the Magistrate's powers under this Code;

(b) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of

[1] *See* s. 374, *infra.*

[2] *See* the Indian Penal Code (Act XLV of 1860), ss. 73 and 74, General Acts, Vol. I.

[3] The words "Whipping (if specially empowered)" in sub-section (1) and sub-section (3) of section 32 were repealed by the Whipping Act, 1909 (IV of 1909), General Acts, Vol. VI, Appendix

the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

34. The Court of a Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or imprisonment for a term exceeding seven years. *Higher Powers of certain District Magistrates.*

[1][**34A.** Notwithstanding anything contained in sections 31, 32 and 34— *Sentences which Courts and Magistrates may pass upon European British subjects.*

(a) no Court of Session shall pass on any European British subject any sentence other than a sentence of death, penal servitude, or imprisonment with or without fine, or of fine, and

(b) no District Magistrate or other Magistrate of the first class shall pass on any European British subject any sentence other than imprisonment which may extend to two years, or fine which may extend to one thousand rupees, or both.]

35. (1) [2][When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the [3]Indian Penal Code,] sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment or transportation to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently. *Sentence in cases of conviction of several offences at one trial.* *XLV of 1860*

(2) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several

[1] Section 34A was inserted by s. 7 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[2] These words were substituted for the words "When a person is convicted at one trial of two or more distinct offences, the Court may," by s. 7 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[3] General Acts, Vol. I.

offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Maximum term of punishment.

Provided as follows:—

(*a*) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

(*b*) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

(*3*) For the purpose of appeal, [1][the aggregate of consecutive] sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

[2]* * * * * * *

C.—*Ordinary and Additional Powers.*

Ordinary powers of Magistrates.

[3]**36.** All District Magistrates, Sub-Divisional Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."

Additional powers conferrable on Magistrates

[3]**37.** In addition to his ordinary powers, and Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

Control of District Magistrate's investing power.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

D.—*Conferment, Continuance and Cancellation of Powers.*

Mode of conferring powers.

39. (*1*) In conferring powers under this Code the Local Government may, by order, empower persons specially by name or in virtue of their office or classes of officials generally by their official titles.

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[1] These words were substituted for the word "aggregate" by s 7 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] *The Explanation and Illustration to s. 35 were repealed by ibid*

[3] As to powers of Magistrates in Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. V, Bur. Code

For notification conferring certain additional powers on classes of Magistrates in (1) the North-West Frontier Province, *see* Gazette of India, 1904, Pt II, p. 667; (2) the Punjab, *see* Punj. R. and O.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is [1][appointed] to an equal or higher office of the same nature, within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, [2]* * * exercise the same powers in the local area [3][in which] he is so [1][appointed]. Powers of officers appointed

41. (*1*) The Local Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it. Powers may be cancelled.

(*2*) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

42. Every person is bound to assist a Magistrate or police-officer reasonably demanding his aid, whether within or without the presidency-towns,— Public when to assist Magistrates and police.

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or police-officer is authorized to arrest;

(*b*) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

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[1] This word was substituted for the word "transferred" by s. 8 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] The words "continue to" were omitted by *ibid.*
[3] These words were substituted for the words "to which" by *ibid*

Aid to person, other than police-officer, executing warrant.

43. When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences

44. (*1*) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit any offence punishable under any of the following sections of the Indian Penal Code[1] (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention. XLV of

(*2*) For the purposes of this section the term "offence" includes any act committed at any place out of British India which would constitute an offence if committed in British India.

Village-headmen, accountants, landholders and others bound to report certain matters.

[2]**45.** (*1*) Every village-headman, village-accountant, village-watchman, village police-officer, owner or occupier of land, and the agent of any such owner or occupier [3][in charge of the management of that land], and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may [4][possess] respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(*b*) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable

[1]General Acts, Vol. I

[2]This section does not apply to areas in which the Burma Village Act, 1907 (Bur Act VI of 1907), is in force, *see* s. 7 (*2*) of that Act, Bur. Code.

[3]These words were inserted by s 9 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[4]This word was substituted for the word "obtain" by *ibid*

under section 143, 144, 145, 147, or 148 of the Indian Penal Code[1],

XLV of 1860.

(d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances [2][or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;]

(e) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code,[1] namely, [3][231, 232, 233, 234, 235, 236, 237, 238,] 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, [4][460, 489A, 489B, 489C and 489D];

XLV of 1860

(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

(2) In this section—

(i) "village" includes village-lands; and

(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Governor General in Council in any part of India, in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code,[1] namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

XLV of 1860

[1] General Acts, Vol I.
[2] These words were added by s 9 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[3] These figures were inserted by *ibid*
[4] These figures, letters and word were substituted for the word and figures "and 460" by *ibid*

Appointment of village-headmen by District Magistrate or Sub-divisional Magistrate in certain cases for purposes of this section

(3) Subject to rules in this behalf to be made by the Local Government, the District Magistrate [1][or Sub-divisional Magistrate] may from time to time appoint one or more persons [1][with his or their consent] [2][to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law].

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

Arrest how made.

46. (*1*) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

(*2*) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

(*3*) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with transportation for life.

Search of place entered by person sought to be arrested.

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Procedure where ingress not obtainable

48. If ingress to such place cannot be obtained under section 47 it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-

[1] These words were inserted by s. 9 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] These words were substituted for the words "to be village-headmen for the purposes of this section in any village for which there is no such headman appointed under any other law" by *ibid.*

officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it. Breaking open zanáná.

49. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein. Power to break open doors and windows for purposes of liberation.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape[1] No unnecessary restraint.

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and Search of arrested persons.

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.[2]

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency. Mode of searching women.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested. Power to seize offensive weapons.

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[1] For penalty for unwarrantable personal violence by a police officer to a person in his custody, *see* s 29 of the Police Act, 1861 (V of 1861), General Acts, Vol. I.

[2] As to disposal of such property, *see* s. 523, *infra*.

Procedure when police-officer deputes subordinate to arrest without warrant.

56. (*1*) When any officer in charge of a police-station [1][or any police-officer making an investigation under Chapter XIV] requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made. [1][The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.]

(*2*) This section applies also to the police in the town*[2] of Calcutta * * *[2].

Refusal to give name and residence

[3]**57.** (*1*) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(*3*) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Pursuit of offenders into other jurisdictions.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter, pursue such person into any place in British India.

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[1] These words were inserted by s. 11 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] The letter "s" and the words "and Bombay" were repealed by s. 2 (*1*) and Sch. A of the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), Bom. Code.

[3] As to power of detention by officer in charge of a police-station in Upper Burma, *see* Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Bur. Code; s. 57 (*2*) and (*3*) and ss. 60 to 63 apply in cases of arrest under s. 4 of the Burma Highways Act, 1907 (Bur. Act V of 1907), Bur. Code. In British Baluchistan, *see* s. 7 (*1*) of the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Bal. Code.

[1]59. [2][(*1*) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person or cause him to be taken in custody to the nearest police-station.] Arrest by private persons and procedure on such arrest.

(*2*) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(*3*) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

[3]60. A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station. Person arrested to be taken before Magistrate or officer in charge of police-station.

[3]61. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court. Person arrested not to be detained more than twenty-four hours

[3]62. Officers in charge of police-stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise. Police to report apprehensions.

[3]63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate. Discharge of person apprehended.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail,[4] commit the offender to custody. Offence committed in Magistrate's presence.

[1] *Cf.* s. 38 (*1*) of the Frontier Crimes Regulation, 1901 (III of 1901), P. and N.-W. F. Code

[2] This sub-section was substituted by s 12 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[3] *See* note to s 57, *supra.*

[4] *See* Chapter XXXIX, *infra.*

Arrest by or in presence of Magistrate.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Power, on escape, to pursue and retake.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in British India.

Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

Form of summons

68. *(1)* Every summons[1] issued by a Court under this Code shall be in writing in duplicate, signed and sealed by the presiding officer of such Court, or by such [2]other officer as the High Court may, from time to time, by rule, direct.

Summons by whom served

(2) Such summons shall be served by a police-officer, or, subject to such rules as the Local Government may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

(3) This section applies also to the police in the towns of Calcutta and Bombay.

Summons how served.

69. *(1)* The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Signature of receipt for summons

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

(3) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in British India. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

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[1] For forms, *see* Sch. V, Forms I and XXXI, *infra.*
[2] For other officers in Ajmere-Merwara, *see* Aj. R. and O.

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate

Service when person summoned cannot be found.

71. If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Procedure when service cannot be effected as before provided.

72. (*1*) Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section.

Service on servant of Government or of Railway Company.

(*2*) Such signature shall be evidence of due service.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Service of summons outside local limits.

74. (*1*) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

Proof of service in such cases, and when serving officer not present.

(*2*) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.[1]

75. (*1*) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a

Form of warrant of arrest.

[1] These provisions apply to warrants issued under s 10 of the Upper Burma Ruby Regulation, 1887 (XII of 1887), *see* sub-sec. (*2*) of that section, Bur. Code.

Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Continuance of warrant of arrest.

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Court may direct security to be taken

76. (1) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The endorsement[1] shall state—

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and

(c) the time at which he is to attend before the Court.

Recognizance to be forwarded

(3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants to whom directed

77. (1) A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

Warrants to several persons.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

Warrant may be directed to landholders, etc

78. (1) A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(3) When the person against whom such warrant issued is arrested, he shall be made over with the warrant to the nearest police-officer, who

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[1] For forms, *see* Sch V, Form II, *infra*

shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed. Warrant directed to police-officer.

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant. Notification of substance of warrant.

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person. Person arrested to be brought before Court without delay.

82. A warrant of arrest may be executed at any place in British India. Where warrant may be executed.

83. (*1*) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction it is to be executed. Warrant forwarded for execution outside jurisdiction.

[1](*2*) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

84. (*1*) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed. Warrant directed to police officer for execution outside jurisdiction.

(*2*) Such Magistrate or police-officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(*3*) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police-officer to whom it is directed may

[1] Sub-sec. (*2*) of this section, so far as it applies to the police in the Town of Bombay, has been repealed by the City of Bombay Police Act, 1902 (Bom. Act IV of 1902)—*see* s. 2 (*1*) of that Act, Bom. Code.

execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

(4) This section applies also to the police in the town*[1] of Calcutta * * *[1]

Procedure on arrest of person against whom warrant issued.

[2]85. When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent.

Procedure by Magistrate before whom person arrested is brought.

[2]86. (1) Such Magistrate or District Superintendent or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security,[3] as the case may be, and forward the bond to the Court which issued the warrant.

(2) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

C.—Proclamation and Attachment.

Proclamation for person absconding

87. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation[4] requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows:—

(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

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[1] The letter "s" and the words "and Bombay" were repealed by s. 2 (1) and Sch. A of the City of Bombay Police Act, 1902 (Bom Act IV of 1902), Bom. Code

[2] Sections 85 and 86, so far as they apply to the police in the Town of Bombay, have been repealed by the City of Bombay Police Act, 1902 (Bom. Act IV of 1902)—*see* s. 2 (1) of that Act, Bom. Code.

[3] *See* Sch V, Form III, *infra.*

[4] *See* Sch. V, Forms IV and V, *infra.*

(*b*) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village; and

(*c*) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(*3*) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

88. (*1*) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person. Attachment of property of person absconding.

(*2*) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made; and it shall authorize the attachment of any property belonging to such person without such district when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate.

(*3*) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made—

(*a*) by seizure; or

(*b*) by the appointment of a receiver; or

(*c*) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(*d*) by all or any two of such methods, as the Court thinks fit.

(*4*) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and in all other cases—

(*e*) by taking possession; or

(*f*) by the appointment of a receiver; or

(*g*) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(*h*) by all or any two of such methods, as the Court thinks fit.

(*5*) If the property ordered to be attached consists of livestock or is of a perishable nature, the Court may, if it thinks it expedient, order

immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(*6*) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure.[1]

[2][(*6A*) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.]

[2][(*6B*) Claims or objections under sub-section (*6A*) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub-section (*2*), in the Court of such Magistrate.]

[2][(*6C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him.]

[2][(*6D*) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (*6A*) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute, but subject to the result of such suit, if any, the order shall be conclusive.]

[2][(*6E*) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.]

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[1] See now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol VI.
[2] Sub sections (*6A*) to (*6E*) were inserted by s. 13 of the Code of Criminal Procedure (Amendment) Act. 1923 (XVIII of 1923).

(7) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government; but it shall not be sold until the expiration of six months from the date of the attachment [1][and until any claim preferred or objection made under sub-section (*6A*) has been disposed of under that sub-section], unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

Restoration of attached property.

89. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under sub-section (7) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other Rules regarding Processes.

Issue of warrant in lieu of, or in addition to, summons

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant[2] for his arrest—

(*a*) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Power to take bond for appearance.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

[1] These words were inserted by s. 13 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] *See* Sch V, Form VII, *infra*

(Part III —General Provisions. Chapter VI.—Of Processes to compel Appearance. Chapter VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.)

Arrest on breach of bond for appearance.

92. When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Provisions of this Chapter generally applicable to summonses and warrants of arrest

93. The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

Summons to produce document or other thing.

94. (*1*) Whenever any Court, or in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(*2*) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(*3*) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872,[1] sections 123 and 124, or to apply to a letter, post-card, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities. I of 1872

Procedure as to letters and telegrams.

95. (*1*) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or

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[1] General Acts, Vol II.

Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

B.—Search-warrants.[1]

96. (1) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, sub-section (1), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition, When search warrant may be issued.

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) Nothing herein contained shall authorize any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified. Power to restrict warrant

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[1] These provisions apply to searches under s. 9 (1) and (2) of the Upper Burma Ruby Regulation, 1887 (XII of 1887), see s. 9 (5) of that Regulation, Bur. Code.

For power to invest any Forest-officer with power to issue such warrants (1) in Burma, see the Burma Forest Act, 1902 (Bur. Act IV of 1902), s. 74 (c), Bur. Code; (2) in British Baluchistan, see s. 25 (1) (b) of the British Baluchistan Forest Regulation, 1890 (V of 1890), Bal. Code; (3) in Madras, see s. 59 (c) of the Madras Forest Act, 1882 (Mad. Act V of 1882), Mad. Code; and (4) in the rest of British India generally, under the Indian Forest Act, 1878 (VIII of 1878), see s. 71 (c) of the Act, General Acts, Vol. II.

(Part III.—General Provisions. Chapter VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.)

Search of house suspected to contain stolen property, forged documents, etc.

98. (*1*) If a District Magistrate, Sub-divisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin or instruments or materials for

3. (*1*) In sub-section (*1*) of section 98 of the Code of Criminal Procedure, 1898,—

(*i*) after the words " kept or deposited in any place " the following paragraph shall be inserted, namely :—

" or, if a District Magistrate, Sub-divisional Magistrate or a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in section 292 of the Indian Penal Code or that any such obscene objects are kept or deposited in any place ;"

Amendment of section 98, Act V of

1 of 1925.

... therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid, and or of any o...

(*d*) to convey such property, documents, seals, stamps, coins, instruments or materials or such obscene objects before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials or such obscene objects, knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging. Addition made slip attached vide Act VIII of 1925.

" or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported."

Act I of 1925.

(2) The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply respectively to—

(*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889,[1] or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,[2]

of 1889

VIII of 1878

(*b*) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act.

Disposal of things found in search

99. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made are found, such things beyond

V of 1898.

Amendment of Act V of 1898.

3. In the Code of Criminal Procedure, 1898, the following amendments shall be made, namely:—

(*i*) in sub-section (*1*) of section 99A, after the words "His Majesty's subjects" the words "or which is deliberately and maliciously intended to outrage the religious feelings of any such class by insulting the religion or the religious beliefs of that class" shall be inserted, and after the figures and letter "153A" the words, figures and letter "or section *295A*" *shall be inserted;*

(*a*) after the words "seditious matter" the words "or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of His Majesty's subjects" shall be inserted; and

(*b*) after the word and figures "section 124A" the words and figures "or section 153A" shall be inserted.

[1] General Acts, Vol. IV.

[2] General Acts, Vol II

[3] Section 99A was inserted by s. 5 and Schedule III of the Press Law Repe[al and] Amendment Act, 1922 (XIV of 1922).

[4] General Acts, Vol I.

document to be forfeited to His Majesty, and thereupon any police-officer may seize the same, wherever found in British India, and any Magistrate may by warrant authorize any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(*2*) In sub-section (*1*) "document" includes also any painting drawing or photograph, or other visible representation.]

Application to High Court to set aside order of forfeiture.

[1][**99B.** Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made, did not contain any seditious matter.]

Hearing by Special Bench.

[1][**99C.** Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges.]

Order of Special Bench setting aside forfeiture.

[1][**99D.** (*1*) On receipt of the application, the Special Bench shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained seditious matter of the nature referred to in sub-section (*1*) of section 99A, set aside the order of forfeiture.

(*2*) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.]

Evidence to prove nature or tendency of newspapers

[1][**99E.** On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, which are alleged to be seditious matter.] in respect of which the order of forfeit

Procedure in High Court.

[1][**99F.** Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed, the practice of such Courts in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.]

Jurisdiction barred

[1][**99G.** No order passed or action taken under section 99A shall be called in question in any Court otherwise than in accordance with the provisions of section 99B.]

[1] Sections 99B to 99G were inserted by s. 5 and Schedule III of the Press Law Repeal and Amendment Act, 1922 (XIV of 1922)

(Part III.—General Provisions. Chapter VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.)

C.—Discovery of Persons wrongfully confined.

100. If any Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper. Search for persons wrongfully confined.

D.—General Provisions relating to Searches.

... 42, 75, 77, 79, 82, 83 and 84 shall, Direction, etc. of ...

3. In section 99B of the said Act, for the words "seditious matter" the words "seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A" shall be substituted. Amendment of section 99B, Act V of 1898.

this Chapter is closed, ...

such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein. search.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

103. (1) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search [2][and may issue an order in writing to them or any of them so to do]. Search to be made in presence of witnesses.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

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[1] This word, figures and letter were inserted by s. 5 and Schedule III of the Press Law Repeal and Amendment Act, 1922 (XIV of 1922).

[2] These words were added by s. 14 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

Occupant of place searched may attend.

(*3*) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

(*4*) When any person is searched under section 102, sub-section (*3*), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

[1][(*5*) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the [2]Indian Penal Code.] XLV of

E.—Miscellaneous.

Power to impound document, etc., produced

104. Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

Magistrate may direct search in his presence.

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

PART IV.
PREVENTION OF OFFENCES.

CHAPTER VIII.[3]

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

Security for keeping the peace on conviction

106. (*1*) Whenever any person accused of [4][any offence punishable under Chapter VIII of the [2]Indian Penal Code, other than an offence XLV of punishable under section 143, section 149, section 153A or section 154 thereof, or of] assault or other offence involving a breach of the peace, or of abetting the same, [5] * * *, or any person accused of committing

[1] This sub section was added by s 14 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] General Acts, Vol. I.

[3] Ss 20 to 26 of the Sind Frontier Regulation, 1892 (III of 1892), Bom Code, are to be read with and construed as part of this Chapter—*see* s 27 of that Regulation, and s 3, *supra*.

[4] These words and figures were substituted for the word "rioting" by s 15 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[5] The words "or of assembling armed men or taking other unlawful measures with the evident intention of committing the same," were omitted by *ibid*

criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond[1] for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(3) An order under this section may also be made by an Appellate Court [2][including a Court hearing appeals under section 407] or by the High Court when exercising its powers of revision.

B.—Security for keeping the Peace in other Cases and security for Good Behaviour.

Security for keeping the peace in other cases

107. (*1*) Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate [3][if in his opinion there is sufficient ground for proceeding] may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

(*2*) Proceedings shall not be taken under this section unless either the person informed against or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a Chief Presidency or District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

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[1] *See* Sch V, Form X, *infra*

[2] These words were inserted by s. 15 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[3] These words were inserted by s. 16, *ibid*

Procedure of Magistrate not empowered to act under sub-section (*1*).

(*3*) When any Magistrate not empowered to proceed under sub-section (*1*) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(*4*) A Magistrate before whom a person is sent under [1][sub-section (*3*)] may in his discretion detain such person in custody [2][pending further action by himself under this Chapter].

Security for good behaviour from persons disseminating seditious matter.

108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the Local Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing, [3][or in any other manner intentionally] disseminates or attempts to disseminate, or in anywise abets the dissemination of,—

(*a*) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code,[4] or XLV

(*b*) any matter the publication of which is punishable under section 153A of the Indian Penal Code, or

(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such Magistrate, [5][if in his opinion there is sufficient ground for proceeding] may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under,

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[1] This word, figure and brackets were substituted for the words "this section" by s. 16 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] These words were substituted for the words "until the completion of the inquiry hereinafter prescribed" by *ibid.*

[3] These words were inserted by s. 17, *ibid.*

[4] General Acts, Vol. I.

[5] These words were inserted by s. 17 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[1][and edited, printed and published] in conformity with, the rules laid down in the Press and Registration of Books Act, 1867,[2] [3][with reference to any matter contained in such publication] except by the order or under the authority of the Governor General in Council or the Local Government or some officer empowered by the Governor General in Council in this behalf.

XXV of 1867.

109. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information—

Security for good behaviour from vagrants and suspected persons.

(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or

(*b*) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

110. Whenever a Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government receives information that any person within the local limits of his jurisdiction—

Security for good behaviour from habitual offenders.

(*a*) is by habit a robber, house-breaker, [4]* thief, [5][or forger], or

(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or

(*c*) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or

[6][(*d*) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the [2]Indian Penal Code, or under section

XLV of 1860.

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[1] These words were substituted for the words "or printed or published" by s. 17 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] General Acts, Vol. I.

[3] These words were inserted by s. 17 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[4] The word "or" was omitted by s. 18, *ibid*

[5] These words were inserted by *ibid*.

[6] This clause was substituted for the original clause (*d*) by *ibid*.

489A, section 489B, section 489C or section 489D of that Code, or]

(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or

(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.[1]

111. [*Proviso as to European vagrants.*] *Omitted by s. 8 of Act XII. of 1923.*

Order to be made.

[2], [3]**112.** When a Magistrate acting under section 107, section 108, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

Procedure in respect of person present in Court

[2], [3]**113.** If the person in respect of whom such order is made is present in Court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him.

Summons or warrant in case of person not so present.

[3]**114.** If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court:

Provided that whenever it appears to such Magistrate, upon the report of a police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and

[1] In Burma (excepting the Shan States) on receipt of information that a person earns his livelihood wholly or in part by unlawful gaming or by promoting or assisting in the promotion of unlawful gaming, such person may be dealt with as if the information received about him were of the description mentioned in this section—*see* s 17 of the Burma Gambling Act, 1899 (Bur. Act I of 1899), Bur. Code.

[2] Ss 112, 113, 115 and 117 do not apply to an enquiry under s 22 of the Sindh Frontier Regulation, 1892 (III of 1892), Bom. Code, or under s. 42 of the Frontier Crimes Regulation, 1901 (III of 1901), Punj. and N.-W. F. Code

[3] Ss 112 to 121 and 123 to 126 and s 514 apply to all cases requiring security for good behaviour under the Upper Burma and Arakan Hills Frontier Crossing and Distributed Districts Regulation, 1907 (I of 1907), *see* section 5 (2), Bur. Code; and under s 6 of the Punjab Frontier Crossing Regulation, 1873 (VII of 1873), Punj and N.-W. F. Code.

that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

[1], [2]**115.** Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same. Copy of order under section 112 to accompany summons or warrant.

[2]**116.** The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader. Power to dispense with personal attendance.

[1], [2]**117.** (*1*) When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary. Inquiry as to truth of information.

(*2*) Such inquiry shall be made, as nearly as may be practicable where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials and recording evidence in summons-cases; and where the order requires security for good behaviour in the manner hereinafter prescribed for conducting trials and recording evidence in warrant-cases, except that no charge need be framed.

[3][(*3*) Pending the completion of the inquiry under sub-section (*1*) the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded :

[1] *See* footnote 2 on p. 74, *supra*.

[2] *See* footnote 3 on p. 74, *supra*.

[3] This sub-section was inserted by s. 19 of the Code of Criminal Procedure (Amendment) Act 1923 (XVIII of 1923)

Provided that—

(*a*) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behaviour, and

(*b*) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112];

[1][(*4*)] For the purposes of this section the fact that a person is an habitual offender [2][or is so desperate and dangerous as to render his being at large without security hazardous to the community] may be proved by evidence of general repute or otherwise.

[1][(*5*)] Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

Order to give Security.

[3]**118.** (*1*) If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Provided—

first, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112:

secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive:

thirdly, that, when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

Discharge of person informed against.

[3]**119.** If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record

[1] Original sub-sections (3) and (4) were renumbered (4) and (5) respectively by s. 19 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] These words were inserted by *ibid*.

[3] *See* footnote 3 on p. 74, *supra*.

to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.—Proceedings in all Cases subsequent to Order to furnish Security.

[1]**120.** (*1*) If any person, in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence. Commencement of period for which security is required.

(*2*) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

[1]**121.** The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond. Contents of bond.

[2][**122.** (*1*) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond: Power to reject sureties.

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(*2*) Such Magistrate shall, before holding inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall in making the inquiry record the substance of the evidence adduced before him.

(*3*) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (*1*), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing:

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[1] *See* footnote 3 on p. 74, *supra*.

[illegible] to the security required unde[illegible] 1899), Bur. Code [illegible]inal Procedure (Amendmen[illegible]

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him.]

Imprisonment in default of security

[1]**123.** *(1)* If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison,[2] or, if he is already in prison, be detained in prison[3] until such period expires or until within such period he gives the security[4] to the Court or Magistrate who made the order requiring it.

Proceedings when to be laid before High Court or Court of Session.

(2) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court; and the proceedings shall be laid, as soon as conveniently may be, before such Court.

(3) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

[5][*(3A)* If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge or the High Court under sub-section *(2)*, such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections *(2)* and *(3)* shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.]

[5][*(3B)* A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section *(2)* or sub-section *(3A)* to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer,

[1] *See* footnote 3 on p. 74 and footnote 1 on p. 77, *supra*
[2] *See* Sch. V, Forms XIII and XIV, *infra*
[3] As to punishment for escaping or attempting to escape, *see* s. 224 of the Indian Penal Code (XLV of 1860), General Acts, Vol. I.
[4] *See* Sch. V, Form XV, *infra.*
[5] Sub-sections *(3A)* and *(3B)* were inserted by s. 21 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.]

(*4*) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(*5*) Imprisonment for failure to give security for keeping the peace shall be simple. Kind of imprisonment.

(*6*) Imprisonment for failure to give security for good behaviour [1][shall, where the proceedings have been taken under section 108 ~~or section 109~~, be simple and, where the proceedings have been taken under or Sec. 10 section 110], be rigorous or simple as the Court or Magistrate in each case directs. (X 71

[2]**124.** (*1*) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter [3]* * * may be released without hazard to the community or to any other person, he may order such person to be discharged. Power to release persons imprisoned for failing to give security

(*2*) Whenever any person has been imprisoned for failing to give security under this Chapter, the Chief Presidency or District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

[4][(*3*) An order under sub-section (*1*) may direct the discharge of such person either without conditions or upon any conditions which such person accepts:

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired.]

[5][(*4*) The Local Government may prescribe the conditions upon which a conditional discharge may be made.]

[5][(*5*) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate or Chief Presidency

[1] These words and figures were substituted for the word "may" by s 21 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] *See* footnote 3 on p 74 and footnote 1 on p 77, *supra*

[3] The words "whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate," were omitted by s 22 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[4] This sub-section was substituted for the original sub-section (*3*) by *ibid*

[5] Sub-sections (*4*) and (*5*) were inserted by *ibid*.

Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.]

[1][(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police-officer without warrant, and shall thereupon be produced before the District Magistrate or Chief Presidency Magistrate.

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate or Chief Presidency Magistrate may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.]

Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.

[2]**125.** The Chief Presidency or District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court.

Discharge of sureties

[2]**126.** (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

(2) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

Security for unexpired period of bond.

[3][**126A.**] [4][When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (3) of section 122 or under section 126, sub-section (2), appears or is brought before him, the

[1] Sub-section (6) was inserted by s 22 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] *See* footnote 3 on p. 74 and footnote 1 on p 77, *supra.*
[3] Sub section (3) of section 126 was renumbered as s 126A by s 23 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[4] These words were substituted for the words "When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond" by *ibid.*

Magistrate shall cancel the bond executed by such person] and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

CHAPTER IX.[1]

UNLAWFUL ASSEMBLIES.

Assembly to disperse on command of Magistrate or police-officer.

127. (*1*) Any Magistrate or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(*2*) This section applies also to the police in the town*[2] of Calcutta * * *.[2]

Use of civil force to disperse.

128. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police-station, whether within or without the presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's Army or a volunteer enrolled under the Indian Volunteers Act, 1869,[3] and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

XX of 1869.

Use of military force.

129. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

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[1] The whole of this Chapter, so far as it applies to the City of Bombay, is repealed by the City of Bombay Police Act, 1902 (Bom. Act IV of 1902)—*see* s 2 (*1*) and Schedule.

[2] The letter "s" and the words "and Bombay" were repealed by s 2 (*1*) and Sch. A of the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), Bom. Code

[3] The Indian Volunteers Act, 1869 (XX of 1869), has since been repealed by the Auxiliary Force Act, 1920 (XLIX of 1920).

Duty of officer commanding troops required by Magistrate to disperse assembly.

130. (*1*) When a Magistrate determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869,[1] to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law. XX of 1869

(*2*) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Powers of commissioned military officers to disperse assembly.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

Protection against prosecution for acts done under this Chapter.

132. No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any Criminal Court, except with the sanction of the [2][Local Government]; and—

(*a*) no Magistrate or police-officer acting under this Chapter in good faith,

(*b*) no officer acting under section 131 in good faith,

(*c*) no person doing any act in good faith, in compliance with a requisition under section 128 or section 130, and

(*d*) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence·

[3][Provided that no such prosecution shall be instituted in any Criminal Court against any officer or soldier in His Majesty's Army except with the sanction of the Governor General in Council.]

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[1] The Indian Volunteers Act, 1869 (XX of 1869), was repealed by the Auxiliary Force Act, 1920 (XLIX of 1920)

[2] These words were substituted for the words "Governor General in Council" by s. 2 and Sch I of the Devolution Act, 1920 (XXXVIII of 1920).

[3] This proviso was added by *ibid.*

CHAPTER X.

Public Nuisances.

[1][133. (*1*) Whenever a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit, Conditional order for removal of nuisance.

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order[2] requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

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[1] Section 133 was substituted by s. 24 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] *See* Sch. V, Form XVI, *infra.*

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure; or

to remove or support such tree; or

to alter the disposal of such substance; or

to fence such tank, well or excavation, as the case may be; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do,

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A 'public place' includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.]

Service or notification of order.

134. (*1*) The order shall, if practicable, be served on the person against whom it is made, in manner herein provided for service of a summons.

(2) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the Local Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

Person to whom order is addressed to obey or show cause or claim jury.

135. The person against whom such order is made shall—

(*a*) perform, within the time [1][and in the manner] specified in the order, the act directed thereby; or

(*b*) appear in accordance with such order and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a jury to try whether the same is reasonable and proper.

Consequence of his failing to do so.

136. If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 135,

[1] These words were inserted by s. 25 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code,[1] and the order shall be made absolute. XLV of 1860.

137. (*1*) If he appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case. Procedure where he appears to show cause

(*2*) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(*3*) If the Magistrate is not so satisfied, the order shall be made absolute.

138. (*1*) On receiving an application under section 135 to appoint a jury, the Magistrate shall— Procedure where he claims jury

(*a*) forthwith appoint a jury[2] consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;

(*b*) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and

(*c*) fix a time within which they are to return their verdict.

(*2*) The time so fixed may, for good cause shown, be extended by the Magistrate.

139. (*1*) If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any). Procedure where jury finds Magistrate's order to be reasonable

(*2*) In other cases no further proceedings shall be taken under this Chapter.

[3][**139A.** (*1*) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 137 or section 138, inquire into the matter. Procedure where existence of public right is denied

(*2*) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent

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[1] General Acts, Vol. I.

[2] *See* Sch V, Form XVII, *infra.*

[3] Section 139A was inserted by s. 26 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

Civil Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 137 or section 138, as the case may require.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial, nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138.]

Procedure on order being made absolute.

140. (1) When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice[1] of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.[2] XLV of 1860.

Consequences of disobedience to order.

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

(3) No suit shall lie in respect of anything done in good faith under this section.

Procedure on failure to appoint jury or omission to return verdict.

141. If the applicant, by neglect or otherwise, prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

Injunction pending inquiry.

142. (1) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be, or has been, appointed or not, issue such an injunction[3] to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

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[1] *See* Sch. V, Form XVIII, *infra.*
[2] General Acts, Vol. I.
[3] *See* Sch V, Form XIX, *infra*

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

143. A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order[1] any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code[2] or any special or local law.

Magistrate may prohibit repetition or continuance of public nuisance.

XLV of 1860

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

144. (*1*) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, Sub-divisional Magistrate, or of any other Magistrate [3][(not being a Magistrate of the third class)] specially empowered by the Local Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, [4][there is sufficient ground for proceeding under this section and] immediate prevention or speedy remedy is desirable,

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

such Magistrate may, by a written order[5] stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*

[1] *See* Sch V, Form XX, *infra*
[2] General Acts, Vol I
[3] These words and brackets were inserted by s 27 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[4] These words were inserted by *ibid*
[5] *See* Sch V, Form XXI, *infra*

(*3*) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

(*4*) Any Magistrate may, [1][either on his own motion or on the application of any person aggrieved], rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

[2][(*5*) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and shewing cause against the order; and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.]

[3][(*6*)] No order under this section shall remain in force for more than two months from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government, by notification in the official Gazette, otherwise directs.[4]

CHAPTER XII.

DISPUTES AS TO IMMOVEABLE PROPERTY.

Procedure where dispute concerning land, etc., is likely to cause breach of peace

145. (*1*) Whenever a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(*2*) For the purposes of this section the expression " land or water " includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

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[1] These words were inserted by s 27 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] This sub-section was inserted by *ibid.*
[3] Original sub-section (5) was re-numbered (*6*) by *ibid*
[4] For instances of notifications directing certain orders to be made permanent, (1) in Madras, *see* Mad. R and O ; (2) in the United Provinces, *see* U. P. R. and O.

(*3*) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

Inquiry as to possession.

(*4*) The Magistrate shall then, without reference to the merits or the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, [1][receive all such evidence as may be] produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject:

Provided that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date:

Provided also, that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.

(*5*) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (*1*) shall be final.

Party in possession to retain possession until legally evicted.

(*6*) If the Magistrate decides that one of the parties was [2][or should under the first proviso to sub-section (*4*) be treated as being] in such possession of the said subject, he shall issue an order[3] declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction,[4] [5][and when he proceeds under the first proviso to sub-section (*4*), may restore to possession the party forcibly and wrongfully dispossessed].

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[1] Th[illegible] words " receive the evidence " by s. 28 of the Coc[illegible] Act, 1923 (XVIII of 1923).

[2] [illegible]

[3] [illegible]

[4] For limitation of suits to recover possession of such property, see the Indian Limitation Act, 1908 (IX of 1908), Sch. I, art. 47, General Acts, Vol. VI.

[5] These words were added by s. 28 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

(Part IV.—Prevention of Offences. Chapter XII.—Disputes as to Immoveable Property.)

[1][(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto.]

[2][(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.]

[2][(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.]

[2][(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107.]

Power to attach subject of dispute.

146. (1) If the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach[3] it until a competent Court has determined the rights of the parties thereto, or the person entitled to possession thereof:

[4][Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.]

(2) When the Magistrate attaches the subject of dispute, he may, if he thinks fit [5][and if no receiver of the property the subject of dispute, has been appointed by any Civil Court] appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure:[6] XIV of

[7][Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court,

1 ... (7) by s 28 of the Code of Cr ... 5)
2 ...
3 ...
4 ... Procedure (Amendment) Act, ...
5 ...
6 ... eneral Acts, Vol VI
7 ... Procedure (Amendment) Act, 1923 (XVIII of 1923).

possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.]

Disputes concerning rights of use of immoveable property, etc.

[1][**147.** (*1*) Whenever any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied, from a police-report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145, sub-section (*2*) (whether such right be claimed as an easement or otherwise), within the local limits of his jurisdiction, he may make an order[2] in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry

(*2*) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(*3*) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(*4*) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction.]

Local inquiry.

148. (*1*) Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate or Sub-divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(*2*) *The report of the person so deputed may be read as evidence in* the case.

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[1] Section 147 was substituted by s 30 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] *See* Sch V, Form XXIV, *infra*

Order as to costs.

(3) When any costs have been incurred by any party to a proceeding under this Chapter [1]* * * the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. [2][Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable.]

CHAPTER XIII.

Preventive Action of the Police.

Police to prevent cognizable offences.

149. Every police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Information of design to commit such offences

150. Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Arrest to prevent such offences

151. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

152. A police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

Inspection of weights and measures

153. (*1*) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

[illegible] s. 31 of the

be paid may

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

154. Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf. Information in cognizable cases

[1]**155.** (*1*) When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate. Information in non-cognizable cases

(*2*) No police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate Investigation into non-cognizable cases.

(*3*) Any police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

156. (*1*) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial. Investigation into cognizable cases.

(*2*) No proceeding of a police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate

[1] This section, so far as it applies to the police in the town of Bombay, is repealed by s. 2 (*1*) and Schedule A to the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), Bom. Code.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

Procedure where cognizable offence suspected.

157. (*1*) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police-report, and shall proceed in person, or shall depute one of his subordinate officers [1][not being below such rank as the Local Government may, by general or special order, prescribe in this behalf] to proceed, to the spot, to investigate the facts and circumstances of the case, [2][and, if necessary, to take measures] for the discovery and arrest of the offender:

Provided as follows:—

Where local investigation dispensed with

(*a*) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(*b*) if it appear to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

Where police-officer in charge sees no sufficient ground for investigation.

(*2*) In each of the cases mentioned in clauses (*a*) and (*b*) of the proviso to sub-section (*1*), the officer in charge of the police-station shall state in his said report his reasons for not fully complying with the requirements of that sub-section, [3][and, in the case mentioned in clause (*b*), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the Local Government, the fact that he will not investigate the case or cause it to be investigated].

Reports under section 157 how submitted

158. (*1*) Every report sent to a Magistrate under section 157 shall, if the Local Government so directs, be submitted through such superior officer of police as the Local Government, by general or special order, appoints in that behalf.

(*2*) Such superior officer may give such instructions to the officer in charge of the police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

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[1] These words were inserted by s. 32 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] These words were substituted for the words "and to take such measures as may be necessary" by *ibid.*

[3] These words were added by *ibid.*

(Part V.—Information to the Police and their Powers to Investigate. Chapter XIV.)

159. Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code. Power to hold investigation or preliminary inquiry.

160. Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required. Police-officer's power to require attendance of witnesses

161. (*1*) Any police-officer making an investigation under this Chapter [1][or any police-officer not below such rank as the Local Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer] may examine orally any person supposed to be acquainted with the facts and circumstances of the case. Examination of witnesses by police.

(*2*) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

162. [2][(*1*) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police-diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made: Statements to police not to be signed; use of such statements in evidence.

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section
1872. 145 of the Indian Evidence Act, 1872 [3] When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination:

[1] These words were inserted by s 33 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[2] This sub section was substituted by s 34, *ibid.*
[3] General Acts, Vol II

Provided, further, that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.]

(*2*) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (*1*), of the Indian Evidence Act, 1872.[1] I of 1872.

No inducement to be offered.

163. (*1*) No police-officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872,[1] section 24. I of 1872.

(*2*) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

Power to record statements and confessions.

164. (*1*) [2][Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Local Government may, if he is not a police-officer] record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.

(*2*) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(*3*) [3][A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate] shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made volun-

[1] General Acts, Vol. II.
[2] These words were substituted for the words "Every Magistrate not being a police-officer may" by s. 35 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[3] These words were substituted for the words "No Magistrate" by *ibid*

tarily; and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect:—

"[1][I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe] that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(*Signed*) A. B.,
Magistrate."

Explanation—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

165. [2][(*1*) Whenever an officer in charge of a police-station, or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police-station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.] Search by police-officer

[2][(*2*) A police-officer proceeding under sub-section (*1*) shall, if practicable, conduct the search in person.]

(*3*) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may [3][after recording in writing his reasons for so doing] require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing [4][specifying the place to be searched and, so far as possible, the thing for which search is to be made]; and such subordinate officer may thereupon search for such thing in such place.

[1] These words were substituted for the words "I believe" by s. 35 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] These sub-sections were substituted by s. 36 *ibid*.
[3] These words were inserted by *ibid*.
[4] These words were substituted for the words "specifying the document or thing for which search is to be made and the place to be searched" by *ibid*.

(*4*) The provisions of this Code as to search-warrants[1] [2][and the general provisions as to searches contained in section 102 and section 103] shall, so far as may be, apply to a search made under this section.

[3][(*5*) Copies of any record made under sub-section (*1*) or sub-section (*3*) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate:

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

When officer in charge of police-station may require another to issue search warrant.

166. (*1*) An officer in charge of a police-station [4][or a police-officer not being below the rank of sub-inspector making an investigation] may require an officer in charge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(*2*) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

[5][(*3*) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (*1*) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police-officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police-station, in accordance with the provisions of section 165, as if such place were within the limits of his own station.]

[5][(*4*) Any officer conducting a search under sub-section (*3*) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (*1*) and (*3*).]

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[1] *See* ss. 96 to 99, *supra*.
[2] These words and figures were inserted by s 36 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[3] Sub-section (*5*) was added by *ibid*
[4] These words were inserted by s 37, *ibid*.
[5] Sub-sections (*3*) and (*4*) were added by *ibid*.

[1][(*5*) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (*4*):

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

Procedure when investigation cannot be completed in twenty-four hours.

167. (*1*) Whenever [2][any person is arrested and detained in custody, and it appears that the] investigation [3]* * * cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station [4][or the police-officer making the investigation if he is not below the rank of sub-inspector] shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused [5]* * to such Magistrate

(*2*) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

[6][Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Local Government shall authorise detention in the custody of the police]

(*3*) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing

(*4*) If such order is given by a Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

Report of investigation by subordinate police-officer.

168. When any subordinate police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police-station.

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[1] Sub-section (*5*) was added by s 37 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[2] These words were substituted for the words "it appears that any" by s 38, *ibid.*
[3] The words "under this Chapter" were omitted by *ibid*
[4] These words were inserted by *ibid.*
[5] The words and brackets "(if any)" were omitted by *ibid.*
[6] This proviso was added by *ibid*

Release of accused when evidence deficient.

169. If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station [1][or to the police-officer making the investigation] that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond,[2] with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police-report and to try the accused or commit him for trial.

Case to be sent to Magistrate when evidence is sufficient.

170. (*1*) If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police-report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall take security[2] from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(*2*) When the officer in charge of a police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond[2] to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(*3*) If the Court of the District Magistrate or Sub-divisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(*4*) The day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

[1] These words were inserted by s. 39 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[2] *See* Sch. V, Forms XXV and XXVI, respectively.

(*5*) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

Complainants and witnesses not to be required to accompany police-officer.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer,

Complainants and witnesses not to be subjected to restraint

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Recusant complainant or witness may be forwarded in custody.

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Diary of proceedings in investigation.

172. (*1*) Every police-officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(*2*) Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police-officer who made them, to refresh his memory, or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the Indian Evidence Act,
72 1872,[1] section 161 or section 145, as the case may be, shall apply.

Report of police-officer.

173 [2][(*1*) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall—

(*a*) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Local Government, setting forth the names

[1] General Acts, Vol II

[2] This sub-section was substituted by s 40 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties, and

(*b*) communicate, in such manner as may be prescribed by the Local Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given.]

(*2*) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.

(*3*) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

[1][(*4*) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial:

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

Police to inquire and report on suicide, etc.

[2]**174.** (*1*) The officer in charge of a police-station or some other police-officer specially empowered[3] by the Local Government in that behalf, on receiving information that a person—

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

[1] Sub section (*4*) was inserted by s 40 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] For form in which ss 174 to 176 should be read in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court at Madras, [illegible], as amended by the R [illegible]

[3] For [illegible]

(2) Bombay, *see* Bombay Government Gazette, 1909, Pt 1, p 1135;

(3) Madras, *see* Mad. R. and O

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(*2*) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

(*3*) When there is any doubt regarding the cause of death, or when for any other reason the police-officer considers it expedient so to do, he shall, subject to such rules as the Local Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man[1] appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(*4*) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

(*5*) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, [2][Sub-divisional Magistrate or Magistrate of the first class], and any Magistrate especially empowered in this behalf by the Local Government or the District Magistrate.

175. (*1*) A police-officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture. Power to summon persons.

[1] For medical men appointed in Ajmere-Merwara, *see* Aj R and O

[2] These words were substituted for the words "or Sub-divisional Magistrate" by s. 41 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Inquiry by Magistrate into cause of death.

176. (*1*) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (*a*), (*b*) and (*c*) of sub-section (*1*), any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police-officer, and, if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

Power to disinter corpses

(2) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.[1]

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

Ordinary place of inquiry and trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Power to order cases to be tried in different sessions divisions.

178. Notwithstanding anything contained in section 177, the Local Government may direct[2] that any cases or class of cases committed for trial in any district may be tried in any sessions division:

[1] A similar power is entrusted to the Coroners of Calcutta and Bombay. *See* the Coroners Act, 1871 (IV of 1871), s. 11, Ben. Code and Bom. Code.

[2] For notification directing that all cases in which railway officials are committed for trial in the districts of Sylhet and Cachar may be tried in the sessions division of Cachar, *see* Assam R. and O

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act, 1861,[1] [2][or section 107 of the Government of India Act, 1915,] or under this Code, section 526.

24 & 25 Vict., c. 104. 5 & 6 Geo. 5, c. 61.

Accused triable in district where act is done or where consequence ensues.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a*) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried by X or Z

[illegible] urisdiction of Court X, and is, during [illegible] Court Y, and during ten days more [illegible] Z, unable in the local limits of the [illegible] is ordinary pursuits The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z

(*c*) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear The offence of extortion committed on A may be inquired into or tried either by X or Y

(*d*) A is wounded in the Native State of Baroda, and dies of his wounds in Poona The offence of causing A's death may be inquired into and tried in Poona

Place of trial where act is offence by reason of relation to other offence.

180. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done

Illustrations

(*a*) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed

(*b*) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained

(*c*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place

Being a thug or belonging to a gang of dacoits, escape from custody, etc.

181. (*1*) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

[1] *See* now the Government of India Act, 1915 (5 & 6 Geo. 5, c 61)

[2] These words and figures were inserted by s 2 and Schedule of the Amending Act, 1916 (XIII of 1916), General Acts, Vol VIII

Criminal misappropriation and criminal breach of trust.

(*2*) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed.

Theft.

[1][(*3*) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.]

Kidnapping and abduction.

(*4*) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained.

Place of inquiry or trial where scene of offence is uncertain or not in one district only or where offence is continuing or consists of several acts.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

Offence committed on a journey.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Offences against Railway, Telegraph, Post Office and Arms Acts.

184. All offences against the provisions of any law for the time being in force relating to Railways,[2] Telegraphs,[3] the Post-office[4] or Arms and Ammunition[5] may be inquired into or tried in a presidency-town, whether the offence is stated to have been committed within such town or not:

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[1] This sub-section was substituted by s. 42 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] [illegible] 90), General Acts, Vol IV

[3] [illegible] of 1885), General Acts, Vol III.

[4] [illegible] f 1898), General Acts, Vol V.

[5] [illegible] General Acts, Vol. II.

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

[1][**185.** (*1*) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court.

High Court to decide, in case of doubt, district where inquiry or trial shall take place

(*2*) Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence, the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced may direct the trial of such offender to be held in any Court subordinate to it, and if it so decides all other proceedings against such person in respect of such offence shall be discontinued. If such High Court, upon the matter having been brought to its notice, does not so decide, any other High Court, within the local limits of whose appellate criminal jurisdiction such proceedings are pending may give a like direction, and upon its so doing all other such proceedings shall be discontinued.]

186. (*1*) When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

Power to issue summons or warrant for offence committed beyond local jurisdiction.

Magistrate's procedure on arrest.

(*2*) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

187. (*1*) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or Dis-

Procedure where warrant

[1] Section 185 was substituted by s. 43 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

issued by subordinate Magistrate.

trict Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

(2) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

Liability of British subjects for offences committed out of British India.

188. When a Native Indian subject of Her Majesty commits an offence at any place without and beyond the limits of British India, or

when any British subject commits an offence in the territories of any Native Prince or Chief in India, or

when a servant of the Queen (whether a British subject or not) commits an offence in the territories of any Native Prince or Chief in India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Political Agents to certify fitness of inquiry into charge.

Provided that [1][notwithstanding anything in any of the preceding sections of this Chapter] no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in British India; and, where there is no Political Agent, the sanction of the Local Government shall be required:

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar to further proceedings against him under ~~the Foreign Jurisdiction and Extradition Act, 1879,~~[2] in respect of the same offence in any territory beyond the limits of British India. XXI of 18

Power to direct copies of depositions and exhibits to be received in evidence.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court

[1] These words were inserted by s. 44 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] Now repealed by the Indian Extradition Act, 1903 (XV of 1903), General Acts, Vol. V.

The Indian Extradition Act 1903.

might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

B.—Conditions requisite for Initiation of Proceedings.

190. (*1*) Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence— Cognizance of offences by Magistrates.

(*a*) upon receiving a complaint of facts which constitute such offence;

[1][(*b*) upon a report in writing of such facts made by any police-officer;]

(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(*2*) The Local Government, or the District Magistrate subject to the general or special orders[2] of the Local Government, may empower any [3]Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.

(*3*) The Local Government may empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.

191. When a Magistrate takes cognizance of an offence under sub-section (*1*), clause (*c*), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate. Transfer or commitment on application of accused.

192. (*1*) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him. Transfer of cases by Magistrates.

(*2*) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent

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[1] This clause was substituted by s 45 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[2] For notification in Ajmere-Merwara, see Aj R and O
[3] For notification empowering a Sub-divisional Magistrate under this section in Assam in cases arising on the railway in Sylhet, see Assam R and O

under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

Cognizance of offences by Courts of Session.

193. (*1*) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session[1] shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

(*2*) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the [2]Local Government by general or special order may direct them to try, or [3]* * * as the Sessions Judge of the division, by general or special order, may make over to them for trial.

Cognizance of offences by High Court.

194. (*1*) The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the [4]Indian High Courts Act, 1861, [5][or the Government of India Act, 1915], or any other provision of this Code.

Informations by Advocate General.

(*2*) (*a*) Notwithstanding anything in this Code contained, the Advocate General may, with the previous sanction of the Governor General in Council or the Local Government, exhibit to the High Court, against persons subject to the jurisdiction of the High Court, informations for all purposes for which Her Majesty's Attorney General may exhibit informations on behalf of the Crown in the High Court of Justice in England.

(*b*) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney General so far as the circumstances of the case and the practice and procedure of the said High Court will admit.

(*c*) All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information shall belong to the Government of India.

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[1] As to procedure of Courts of Session in (1) Upper Burma, see the Upper Burma [illegible] arts XVII and XXI, respectively.

[2] For instance of a notification of the kind here referred to, see U P. Gazette, 1913, Pt. I, p. 294

[3] The words "in the case [illegible] 46 of the Code of Criminal Procedur[illegible]

[4] *See* now the Government [illegible]

[5] These words were insertec[illegible] (XIII of 1916), General Acts, Vol. VIII.

(*d*) The High Court may make rules for carrying into effect the provisions of this section.

195. [1][(*1*) No Court shall take cognizance—

(*a*) of any offence punishable under sections 172 to 188 of the Indian Penal Code,[2] except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate; Prosecution for contempt of lawful authority of public servants.

LV of 1860.

(*b*) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate; or Prosecution for certain offences against public justice.

(*c*) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.] Prosecution for certain offences relating to documents given in evidence.

(*2*) In clauses (*b*) and (*c*) of sub-section (*1*) the term "Court" [3][includes] a Civil, Revenue or Criminal Court, but does not include a Registrar or Sub-Registrar under the Indian Registration Act, 1877.[4]

III of 1877.

[5][(*3*) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate:

Provided that—

(*a*) where appeals lie to more one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate; and

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[1] This sub section was substituted by s 47 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] General Acts, Vol I

[3] [illegible] ord "means" by s 47 of the Code of Criminal [illegible] of 1923)

[4] [illegible], 1908 (XVI of 1908), General Acts, Vol VI.

[5] [illegible] or the original sub-section (7) after it was [illegible] of the Code of Criminal Procedure (Amend- [illegible]

(*b*) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.]

[1][(*4*)] The provisions of sub-section (*1*), with reference to the offences named therein, apply also to [2][Criminal conspiracies to commit such offences and to] the abetment of such offences, and attempts to commit them.

[3]* * * * * * *

[4][(*5*) Where a complaint has been made under sub-section (*1*), clause (*a*), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.]

[3]* * * * * * *

Prosecution for offences against the State.

196. No Court shall take cognizance of any offence punishable under Chapter VI [5][or IXA] of the Indian Penal Code[6] (except section 127), or punishable under section 108A, or section 153A, or section 294A, or section 505 of the same Code, unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf.

Prosecution for certain classes of criminal conspiracy.

[7][**196A.** No Court shall take cognizance of the offence of criminal conspiracy punishable under section 120B of the Indian Penal Code,[6]

(1) in a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means, or an offence to which the provisions of section 196 apply, unless upon complaint made by order or under authority from the Governor General in Council, the Local Government or some officer empowered by the Governor General in Council in this behalf, or

[1] The original sub-section (*3*) was re-numbered (*4*) by s. 47 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] These words were inserted by s. 4 of the Criminal Law Amendment Act, 1913 (VIII of 1913), General Acts, Vol VII.
[3] Original sub-sections (*4*), (*5*) and (*6*) were omitted by s 47 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[4] This sub section was inserted by *ibid.*
[5] These word, figures and letter were inserted by s 3 of the Indian Elections Offences and Inquiries Act, 1920 (XXXIX of 1920)
[6] General Acts, Vol. I.
[7] This section was inserted by s 5 of the Criminal Law Amendment Act, 1913 (VIII of 1913), General Acts, Vol. VII

(2) in a case where the object of the conspiracy is to commit any non-cognizable offence, or a cognizable offence not punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, unless the Local Government, or a Chief Presidency Magistrate or District Magistrate empowered in this behalf by the Local Government, has, by order in writing, consented to the initiation of the proceedings:

Provided that where the criminal conspiracy is one to which the provisions of sub-section [1][(*4*)] of section 195 apply no such consent shall be necessary.]

Preliminary inquiry in certain cases

[2][**196B.** In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate or Chief Presidency Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (*3*).]

Prosecution of Judges and public servants

XLV of 1860.

197. [3][(*1*) When any person who is a Judge within the meaning of section 19 of the Indian Penal Code,[4] or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of a Local Government or some higher authority, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Local Government]

Power of Government as to prosecution

(2) Such Government may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge, [5][Magistrate] or public servant is to be conducted, and may specify the Court before which the trial is to be held.

Prosecution for breach of contract, defamation and offences against marriage

XLV of 1860

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code[4] or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence:

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[1] Th[illegible] the figure and brackets "(3)" by s 48 o[illegible] Act 1923 (XVIII of 1923)

[illegible] id

[4] General Acts Vol I

[5] This word was inserted by s 50 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[1][Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf.]

Prosecution for adultery or enticing a married woman.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code,[2] except upon a complaint made by the husband of the woman, or, in his absence, [3][made with the leave of the Court] by some person who had care of such woman on his behalf at the time when such offence was committed: XLV o

[4][Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf.]

Objection by lawful guardian to complaint by person other than person aggrieved.

[5][**199A.** When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof.]

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

Examination of complainant

200. [6]* * * A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate:

Provided as follows:—

(*a*) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine

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[1] This proviso was added by s. 51 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] General Acts, Vol I.
[3] These words were inserted by s. 52 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[4] This proviso was added by *ibid.*
[5] Section 199A was inserted by s. 53, *ibid.*
[6] The words and figures "Subject to the provisions of section 476" were omitted by s. 54, *ibid.*

the complainant before transferring the case under section 192;

[1][(*aa*) when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties;]

(*b*) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing;

where the complaint is made in writing

(*c*) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

Procedure by Magistrate not competent to take cognizance of the case.

201. (*1*) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(*2*) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court

Postponement for issue of process

202. [2][(*1*) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police-officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood

Amendment of section 202, Act V of 1898

4. For the proviso to sub-section (*1*) of section 202 of the said Code the following proviso shall be substituted, namely:—

"Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200."

[2] This sub section was substituted by s 55, *ibid*.

(*b*) where the complaint has been made by a Court under the provisions of this Code.]

[1][(*2*) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.]

[2][(*2A*) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath.]

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

Dismissal of complaint.

203. The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, [3][after considering the statement on oath (if any) of the complainant and the result of any investigation or inquiry under section 202], there is in his judgment no sufficient ground for proceeding. In such case he shall briefly record his reasons for so doing.

the (if any) Vide Act II of 1926.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

Issue of process

204. (*1*) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

(*2*) Nothing in this section shall be deemed to affect the provisions of section 90.

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[1] This sub-section was substituted by s 55 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] This sub section was added by *ibid*

[3] These words were substituted for the words "after examining the complainant and considering the result of the investigation (if any) made under section 202" by s 56, *ibid*

(3) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

205. (1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader. Magistrate may dispense with personal attendance of accused.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

206. (1) [1]* * * Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, or any Magistrate [2][(not being a Magistrate of the third class)] empowered in this behalf by the Local Government, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court. Power to commit for trial

(2) But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

207. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court. Procedure in inquiries preparatory to commitment.

208. (1) The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate Taking of evidence produced.

(2) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

(3) If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attend- Process for production of further evidence.

[1] The words and figures "subject to the provision of section 443," were omitted by s 9 of the Criminal Law Amendment Act, 1923 (XII of 1923)

[2] These words and brackets were inserted by s 57 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

ance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(*4*) Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

When accused person to be discharged

209. (*1*) When the evidence referred to in section 208, sub-sections (*1*) and (*3*), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(*2*) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

When charge is to be framed.

210. (*1*) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

Charge to be explained, and copy furnished to accused.

(*2*) As soon as [1][such charge] has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

List of witnesses for defence on trial.

211 (*1*) The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

Further list.

(*2*) The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Power of Magistrate to examine such witnesses.

212. The Magistrate may, in his discretion, summon and examine any witness named in any list given in to him under section 211.

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[1] These words were substituted for the words "the charge" by s. 58 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

213. (*1*) When the accused, on being required to give in a list under section 211, has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment. Order of commitment.

(*2*) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused.

214. [*Person charged outside presidency-towns jointly with European British subject.*] *Omitted by s. 10 of Act XII of 1923.*

215. A commitment once made under section 213 [1]* * * by a competent Magistrate [2]* * * or by a Civil or Revenue Court under section 478, can be quashed by the High Court only, and only on a point of law. Quashing commitments under section 213.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list, as have not appeared before himself, to appear before the Court to which the accused has been committed: Summons to witnesses for defence when accused is committed.

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly:

Provided, also, that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses. Refusal to summon unnecessary witness unless deposit made.

217. (*1*) Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary Bond of complainants and witnesses.

[1] The words and figures "or section 214" were omitted by s. 11 of the Criminal Law Amendment Act, 1923 (XII of 1923).
[2] The words and figures "or by a Court of Session under section 477" were omitted by s. 59 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute bond.

(*2*) If any complainant or witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

Commitment when to be notified.

218. (*1*) When the accused is committed for trial, the Magistrate shall issue an order[1] to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge;

Charge, etc., to be forwarded to High Court or Court of Session.

and shall send the charge, the record of the enquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

English translation to be forwarded to High Court.

(*2*) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

Power to summon supplementary witnesses

219. (*1*) [2][The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206] may, if he thinks fit, summon and examine supplementary witnesses *after the commitment and before the commencement of the trial*, and bind them over in manner hereinbefore provided to appear and give evidence.

(*2*) Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall [3][be given to the accused free of cost].

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[1] *See* Sch. V, Form XXVII, *infra*.
[2] These words were substituted for the words "The Magistrate" by s. 60 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[3] These words were substituted for the words "if the accused so require, be given to him free of cost" by *ibid*.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail,[1] commit the accused by warrant, to custody.

Custody of accused pending trial.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.[2]

221. (*1*) Every charge under this Code shall state the offence with which the accused is charged.

Charge to state offence.

(*2*) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

Specific name of offence sufficient description.

(*3*) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

How stated where offence has no specific name.

(*4*) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(*5*) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

What implied in charge.

(*6*) In the presidency-towns the charge shall be written in English; elsewhere it shall be written either in English or in the language of the Court.

Language of charge.

(*7*) If the accused [3][having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence,] the fact, date and place of the previous conviction shall be stated in the charge. If such statement [4][has been omitted,] the Court may add it at any time before sentence is passed.

Previous conviction when to be set out.

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[1] *See* Chapter XXXIX, *infra*

[2] *See* Sch. V, Form XXVIII, *infra*

[3] These words were substituted for the words "has been previously convicted of any offence, and [illegible] for the purpose of affecting [illegible] 51 of the Code of Criminal [illegible]

[4] [illegible]" by *ibid*

Illustrations.

(*a*) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code[1]; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception I, one or other of the three provisos to that exception apply to it. XLV of 186

(*b*) A is charged, under section 326 of the Indian Penal Code,[1] with voluntarily causing grievous hurt to B by means of an instrument for shooting This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code,[1] and that the general exceptions did not apply to it. XLV of 186

(*c*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code[1]; but the sections under which the offence is punishable must, in each instance, be referred to in the charge XLV of 186

(*d*) A is charged, under section 184 of the Indian Penal Code[1], with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant The charge should be in those words XLV of 186

Particulars as to time, place and person.

222. (*1*) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(*2*) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234:

Provided that the time included between the first and last of such dates shall not exceed one year.

When manner of committing offence must be stated

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose

Illustrations

(*a*) A is accused of the theft of a certain article at a certain time and place The charge need not set out the manner in which the theft was effected.

(*b*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

[illegible] place The charge must [illegible] to be false
[illegible] discharge of his public [illegible] the manner in which A [illegible]

[1] General Acts, Vol I.

(e) A is accused of the murder of B at a given time and place The charge need not state the manner in which A murdered B

(f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed

Words in charge taken in sense of law under which offence is punishable

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Effect of errors.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations

XLV of 1860.

(a) A is charged under section 242 of the Indian Penal Code,[1] with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material

...er in which he cheated B is not set ...ds himself, calls witnesses and gives ... infer from this that the omission to set out the manner of the cheating is not material

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence The Court may infer from such facts that the omission to set out the manner of the cheating was, in the case, a material error

...la Baksh on the 21st January 1882 In fact, ...sh, and the date of the murder was the 20th ...murder but one, and had heard the inquiry ...clusively to the case of Haidar Baksh. ...A was not misled, and that the error in the charge was immaterial

(e) A was charged with murdering Haidar Baksh on the 20th January 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January 1882 When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh The witnesses present in his defence were witnesses in the case of Haidar Baksh The Court may infer from this that A was misled, and that the error was material.

Procedure on commitment without charge or with imperfect charge.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the Clerk of the Crown, may frame a charge or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

Illustrations

1 A is charged with the murder of C A charge of abetting the murder of C may be added or substituted

of 1860

2 A is charged with forging a valuable security under section 467 of the Indian Penal Code[1] A charge of fabricating false evidence under section 193 may be added

of 1860

3 A is charged with receiving stolen property knowing it to be stolen During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Indian Penal Code[1] cannot be added.

[1] General Acts, Vol. I.

Court may alter charge.

227. (*1*) Any Court may alter or add to any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

(*2*) Every such alteration or addition shall be read and explained to the accused.

When trial may proceed immediately after alteration.

228. If the charge framed or alteration or addition made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

When new trial may be directed, or trial suspended.

229. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

230. If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Recall of witnesses when charge altered.

231. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, and also to call any further witness whom the Court may think to be material.

Effect of material error.

232. (*1*) If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

(*2*) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence, under section 196 of the Indian Penal Code,[1] upon a charge which omits to state that he knew the evidence, which he corruptly used or XLV of 186[0]

[1] General Acts, Vol. I.

attempted to use as true or genuine, was false or fabricated If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge, but, if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction

Joinder of charges.

233. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239. Separate charges for distinct offences.

Illustration

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt

234. (*1*) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, [1][whether in respect of the same person or not] he may be charged with, and tried at one trial for, any number of them not exceeding three. Three offences of same kind within a year may be charged together.

(*2*) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal XLV of 1860 Code[2] or of any special or local law:

[3][Provided that, for the purpose of this section, an offence punishable XLV of 1860 under section 379 of the Indian Penal Code[2] shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the XLV of 1860. Indian Penal Code,[2] or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence]

235. (*1*) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence. Trial for more than one offence

(*2*) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences. Offence falling within two definitions

[1] These words were inserted by s 62 of the Code of Criminal Procedure (Amendment Act, 1923 (XVIII of 1923).
[2] General Acts, Vol I
[3] This proviso was added by s 62 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

Acts constituting one offence, but constituting when combined a different offence.

(*3*) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(*4*) Nothing contained in this section shall affect the Indian Penal Code,[1] section 71. XLV of 1860.

Illustrations

to sub-section (1)—.

(*a*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was A may be charged with, and convicted of, offences under sections 225 and 333 of the Indian Penal Code[1] XLV of 1860.

(*b*) A commits house breaking by day with intent to commit adultery, and commits in the house so entered adultery with B's wife A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.[1]

(*c*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code[1]

(*d*) A has in his possession s [illegible] end-ing to use them for the purpose [illegible] tion 466 of the Indian Penal Code [illegible] the possession of each seal under sec [illegible] XLV of 1860.

(*e*) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charges A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code[1]

(*f*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code[1]

(*g*) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of Indian Penal Code.[1]

(*h*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code[1]

The separate charges referred to in Illustrations (*a*) to (*h*) respectively may be tried at the same time

to sub-section (2)—

(*i*) A wrongfully strikes B with a cane A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code[1]

(*j*) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain pit A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code[1]

(*k*) A exposes her child with the knowledge that she is thereby likely to cause its death The child dies in consequence of such exposure A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code

(*l*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code[1] A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code

[1] General Acts, Vol I.

to sub-section (5)—

(*m*) A commits robbery on B, and in doing so voluntarily causes hurt to him A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code [1] XLV of 1860

236. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences. Where it is doubtful what offence has been committed.

Illustrations.

(*a*) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating

(*b*) A states on oath before the Magistrate that he saw B hit C with a club Before the Sessions Court A states on oath that B never hit C A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false

237. (*1*) If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it. When a person is charged with one offence, he can be convicted of another.

[2]* * * * * *

Illustration

A is charged with theft It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be) though he was not charged with such offence

238. (*1*) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it. When offence proved included in offence charged

(*2*) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it

[3][(*2A*) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.]

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[1] General Acts, Vol. I

[2] Sub section (2) was omitted by s 63 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[3] This sub-section was inserted by s. 64, *ibid*

(3) Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

Illustrations

(a) A is charged, under section 407 of the Indian Penal Code,[1] with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406. XLV of 1860

(b) A is charged, under section 325 of the Indian Penal Code,[1] with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

What persons may be charged jointly

[2][239. The following persons may be charged and tried together, namely:—

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence;

(c) persons accused of more than one offence of the same kind within the meaning of section 234 committed by them jointly within the period of twelve months;

(d) persons accused of different offences committed in the course of the same transaction;

(e) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;

(f) persons accused of offences under sections 411 and 414 of the Indian Penal Code[1] or either of those sections in respect of stolen property the possession of which has been transferred by one offence; and XLV of 1860

(g) persons accused of any offence under Chapter XII of the Indian Penal Code[1] relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; XLV of 1860.

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[1] General Acts, Vol. I.
[2] Section 239 was substituted by s. 65 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges.]

Withdrawal of remaining charges on conviction on one of several charges.

240. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

Procedure in summons-cases.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases.

Substance of accusation to be stated.

242. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted, but it shall not be necessary to frame a formal charge.

Conviction on admission of truth of accusation.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Magistrate [1][may convict] him accordingly.

Procedure when no such admission is made.

244. (*1*) [2][If the Magistrate does not convict the accused under the preceding section or] if the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence:

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[1] These words were substituted for the words "shall convict" by s. 66 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] These words were inserted by s. 67, *ibid.*

[1][Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.]

(*2*) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue [2][a summons to any witness directing him to attend or to produce] any document or other thing.

(*3*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

Acquittal.

245. (*1*) If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

Sentence.

[3][(*2*) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law[4].]

Finding not limited by complaint or summons.

246. A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this Chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons.

Non-appearance of complainant.

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day:

Provided that, where the complainant is a public servant and his personal attendance is not required, *the Magistrate may dispense with* his attendance, and proceed with the case.

Withdrawal of complaint

248. If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

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[1] This proviso was added by s. 67 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] These words were substituted for the words "process to compel the attendance of any witness or the production of" by *ibid.*

[3] This sub-section was substituted by s. 68, *ibid.*

[4] *See* Sch V, Form XXIX, *infra.*

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or with the previous sanction of the District Magistrate, any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

Power to stop proceedings when no complainant.

Frivolous Accusations in Summons and Warrant Cases.

250. [1][(*1*) If, in any case instituted upon complaint or upon information given to a police-officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present direct the issue of a summons to him to appear and show cause as aforesaid.]

False, frivolous or vexatious accusations.

[1][(*2*) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.]

[1][(*2A*) The Magistrate may, by the order directing payment of the compensation under sub-section (*2*), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.]

[1][(*2B*) When any person is imprisoned under sub-section (*2A*), the provisions of sections 68 and 69 of the Indian Penal Code[2] shall, so far as may be, apply.]

LV of 1860.

[1][(*2C*) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil

[1] These sub-sections were substituted for sub-sections (*1*) and (*2*) by s. 69 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] General Acts, Vol. I.

or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.]

(3) A complainant or informant who has been ordered under [1][sub-section (2)] by a Magistrate of the second or third class to pay compensation [2][or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees] may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(4) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (3), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided [3][and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order].

[4]* * * * * * *

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

Procedure in warrant-cases.

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

Evidence for prosecution.

252. (1) When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution:

[5][Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.]

[1] This word and figure were substituted for the word and figure "sub-section (1)" by s. 69 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[2] These words were substituted for the words "to an accused person" by *ibid*
[3] These words were added by *ibid*.
[4] Sub-section (5) was omitted by *ibid*.
[5] This proviso was added by s. 70, *ibid*

(2) The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon[1] to give evidence before himself such of them as he thinks necessary.

253. (1) If, upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him. Discharge of accused.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

254.[2] If, when such evidence and examination have been taken and made, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused. Charge to be framed when offence appears proved

255. (1) The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make. Plea.

(2) If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

[3][**255A.** In a case where a previous conviction is charged under the provisions of section 221, sub-section (7), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under section 255, sub-section (2), or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon.] Procedure in case of previous convictions.

256. (1) If the accused refuses to plead, or does not plead, or claims to be tried, he shall be required to state, [4][at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith], whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence Defence

[1] See Sch V, Form XXXI, *infra*
[2] See ss. 252 and 208, *supra*
[3] Section 255A was inserted by s 71 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[4] These words were inserted by s 72, *ibid.*

has been taken. If he says he does so wish, the witnesses named by him shall be re-called and, after cross-examination and re-examination (if any), they shall be discharged. The evidence of any remaining witnesses for the prosecution shall next be taken, and, after cross-examination and re-examination (if any), they also shall be discharged. The accused shall then be called upon to enter upon his defence and produce his evidence.

(*2*) If the accused puts in any written statement, the Magistrate shall file it with the record.

Process for compelling production of evidence at instance of accused.

257. (*1*) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the *attendance of such witness shall not be compelled under this section,* unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(*2*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

Acquittal.

258. (*1*) If in any case under this Chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

Conviction.

[1][(*2*) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.[2]]

Absence of complainant.

259. When the proceedings have been instituted upon complaint, and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded,[3] [4][or is not a

[1] This sub-section was substituted by s 73 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] *See* Sch V, Form XXIX, *infra.*

[3] *See* s 345, *infra.*

[4] These words were inserted by s 74 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

cognizable offence,] the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

CHAPTER XXII.

OF SUMMARY TRIALS.

260.[1] (*1*) Notwithstanding anything contained in this Code,— Power to try summarily.

(*a*) the District Magistrate,

(*b*) any Magistrate of the first class specially empowered in this behalf by the Local Government, and

(*c*) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the Local Government,

may, if he or they think fit, try in a summary way all or any of the following offences:—

(*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months,

(*b*) offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code;[2] XLV of 1860

(*c*) hurt, under section 323 of the same Code;

(*d*) theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees;

(*e*) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed fifty rupees;

(*f*) receiving or retaining stolen property under section 411 of the same Code, where the value of such property does not exceed fifty rupees;

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[1] As to powers of Magistrates in (1) Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art V, Bur Code; (2) in British Baluchistan, *see* British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art 5, Bal Code As to summary trial of forest offences, *see* the Indian Forest Act, 1878 (VII of 1878), s 65, General Acts, Vol II

[2] General Acts Vol I

262. (*1*) In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned. Procedure for summons and warrant cases applicable

(*2*) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter. Limit of imprisonment

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge; but he or they shall enter in such form as the Local Government may direct the following particulars:— Record in cases where there is no appeal

(*a*) the serial number;

(*b*) the date of the commission of the offence,

(*c*) the date of the report or complaint,

(*d*) the name of the complainant (if any);

(*e*) the name, parentage and residence of the accused;

(*f*) the offence complained of and the offence (if any) proved, and in cases coming under clause (*d*), clause (*e*), clause (*f*) or clause (*g*) of sub-section (*1*) of section 260 the value of the property in respect of which the offence has been committed;

(*g*) the plea of the accused and his examination (if any);

(*h*) the finding, and, in the case of a conviction, a brief statement of the reasons therefor,

(*i*) the sentence or other final order and

(*j*) the date on which the proceedings terminated

264. (*1*) In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263 Record in appealable cases.

(*2*) Such judgment shall be the only record in cases coming within this section

265. (*1*) Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue Language of record and judgment.

(*2*) The Local Government may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to Bench may be authorized to employ clerk.

which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(3) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(4) If the Bench differ in opinion, any dissentient member may write a separate judgment.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.[1]

A.—Preliminary.

"High Court" defined.

266. In this Chapter, except in sections 276 and 307, and in Chapter XVIII, the expression "High Court" means a High Court of Judicature established [2]* * * under the Indian High Courts Act, 1861,[3] [4][or the Government of India Act, 1915], and includes [5][the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind and] [6]* * * [7]* * * such other Courts[8] as the Governor General in Council may, by notification in the Gazette of India, declare to be High Courts for the purposes of this Chapter [9][and of Chapter XVIII].

24 & 25 Vict., c. 104.
5 & 6 Geo. 5, c. 61.

Trials before High Court to be by jury.

267. All trials under this Chapter before a High Court shall be by jury;

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[1] As to Courts of Session in (1) Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. II, Bur. Code; (2) in British Baluchistan, *see* the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 3, Bal. Code.

[2] The words "or to be established" were omitted by s. 2 and Schedule of the Amending Act, 1916 (XIII of 1916), Genl. Acts, Vol. VIII.

[3] *See* now the Government of India Act, 1915 (5 & 6 Geo 5, c. 61).

[4] These words and figures were inserted by s 2 and Schedule of the Amending Act, 1916 (XIII of 1916), Genl. Acts, Vol. VIII

[5] These words were inserted by s. 12 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[6] The words "the Chief Court of the Punjab" were repealed by the Repealing and Amending Act, 1919 (XVIII of 1919).

[7] The words "the Chief Court of Lower Burma and" were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1923 (XI of 1923).

[8] *See* footnote 10 on p. 32, *supra*.

[9] These words and figures were added by s 76 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent of any High Court established under the Indian High Courts Act, 1861,[1] [2][or the Government of India Act, 1915,] the trial may, if the High Court so directs, be by jury.

24 & 25 Vict., c. 104. 5 & 6 Geo. 5, c. 61.

268. All trials before a Court of Session shall be either by jury, or with the aid of assessors. Trials before Court of Session to be by jury or with assessors.

269. (*1*) The Local Government[3] may, [4]* * * by order in the official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may, with the like sanction, revoke or alter such order. Local Government may order trials before Court of Session to be by jury

(*2*) The Local Government, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offences shall, if the Judge, on application made to him or of his own motion so directs, be by jurors summoned from a special jury list, and may revoke or alter such order.

(*3*) When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.

270. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor Trial before Court of Session to be conducted by Public Prosecutor.

B.—Commencement of Proceedings.

271. (*1*) When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried. Commencement of trial.

(*2*) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon. Plea of guilty.

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[1] *See* now the Government of India Act, 1915 (5 & 6 Geo 5, c 61).

[2] These words and figures were inserted by s 2 and Schedule of the Amending Act, 1916 (XIII of 1916), General Acts, Vol VIII

[3] For notification issued under this section by the (1) Government of Burma, *see* Bur. R M ; (2) Chief Commissioner of Assam for the Assam Valley Sessions Court, *see* Assam R. and O , (3) Government of Bengal, *see* Ben R and O

[4] The words "with the previous sanction of the Governor General in Council" were omitted by s 2 and Sch I of the Devolution Act, 1920 (XXXVIII of 1920)

Refusal to plead or claim to be tried.

272. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case:

Trial by same jury or assessors of several offenders in succession.

Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

Entry on unsustainable charges.

273. (*1*) In trials before the High Court, when it appears to the High Court, at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

Effect of entry.

(*2*) Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

C.—Choosing a Jury.

Number of jury.

274. (*1*) In trials before the High Court the jury shall consist of nine persons.

(*2*) In trials by jury before the Court of Session the jury shall consist of such uneven number, not being less than [1][five] or more than nine, as the Local Government, by order applicable to any particular district or to any particular class of offences in that district, may direct:

[2][Provided that, where any accused person is charged with an offence punishable with death, the jury shall consist of not less than seven persons and, if practicable, of nine persons.]

Jury for trial of European and Indian British subjects and others.

[3][**275.** (*1*) In a trial by jury before the High Court or Court of Session of a person who has been found under the provisions of this Code to be an European or Indian British subject, a majority of the jury shall, if such person before the first juror is called and accepted so requires, consist, in the case of an European British subject, of persons who are Europeans or Americans and, in the case of an Indian British subject, of Indians.

(*2*) In any such trial by jury of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, a majority of the jury shall, if practicable and if such European or American before the first juror is called

[1] This word was substituted for the word "three" by s. 13 of the Criminal Law Amendment Act, 1923 (XII of 1923)

[2] This proviso was added by *ibid*

[3] Section 275 was substituted by s. 14, *ibid*.

and accepted so requires, consist of persons who are Europeans or Americans.]

Jurors to be chosen by lot

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court may from time to time by rule[1] direct:

Provided that—

Existing practice maintained;

first, pending the issue under this section of rules for any Court the practice now prevailing in such Court in respect to the choosing of jurors shall be followed;

persons not summoned when eligible;

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present;

trials before special jurors

thirdly, [2][in a trial before any High Court in the town which is the usual place of sitting of such High Court]—

(*a*) if the accused person is charged with having committed an offence punishable with death, or

(*b*) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury list hereinafter prescribed; and

fourthly, in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

Names of jurors to be called.

277. (*1*) As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused shall be asked if he objects to be tried by such juror.

Objection to jurors.

(*2*) Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated:

Objection without grounds stated.

Provided that, in the High Court, objections without grounds stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged.

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[1] For rules made under this section in conjunction with s 313 by the High Court [illegible]d O ; for Madras, *see* Mad R. and O.;

[illegible] ls "in the presidency towns" by s 77 Act 1923 (XVIII of 1923)

Grounds of objection.

278. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed:—

(*a*) some presumed or actual partiality in the juror;

(*b*) some personal grounds, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years;

(*c*) his having by habit or religious vows relinquished all care of worldly affairs;

(*d*) his holding any office in or under the Court;

(*e*) his executing any duties of police or being entrusted with police-duties;

(*f*) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury;

(*g*) his inability to understand the language in which the evidence is given, or when such evidence is interpreted the language in which it is interpreted;

(*h*) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

Decision of objection.

279. (*1*) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

Supply of place of juror against whom objection allowed.

(*2*) If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, or if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury:

Provided that no objection to such juror or other person is taken under section 278 and allowed.

Foreman of jury.

280. (*1*) When the jurors have been chosen, they shall appoint one of their number to be foreman.

(*2*) The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

(*3*) If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

281. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873.[1] Swearing of jurors. X of 1873

282. (*1*) If, in the course of a trial by jury at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given or, when such evidence is interpreted, the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen. Procedure when juror ceases to attend, etc.

(*2*) In each of such cases the trial shall commence anew.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar. Discharge of jury in case of sickness of prisoner.

D.—Choosing Assessors.

284. When the trial is to be held with the aid of assessors, [2][not less than three and, if practicable, four shall be chosen] from the persons summoned to act as such. Assessors how chosen.

[3][**284A.** (*1*) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European or Indian British subject, if the European or Indian British subject accused, or, where there are several European British subjects accused or several Indian British subjects accused, all of them jointly, before the first assessor is chosen so require, all the assessors shall, in the case of European British subjects, be persons who are Europeans or Americans or, in the case of Indian British subjects, be Indians Assessors for trial of European and Indian British subjects and others

(*2*) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, all the assessors shall, if practicable and if such European or American before the first assessors is chosen so requires, be persons who are Europeans or Americans.]

285. (*1*) If in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors. Procedure when assessor is unable to attend.

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[1] General Acts, Vol II

[2] These words were substituted for the words "two or more shall be chosen, as the Judge thinks fit" by s 15 of the Criminal Law Amendment Act, 1923 (XII of 1923)

[3] Section 284A was inserted by s 16, *ibid*.

(2) If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed and a new trial shall be held with the aid of fresh assessors.

[1][*DD.—Joint trials*.]

Trial of European or Indian British subject or European or American jointly accused with others

[1][**285A.** In any case in which an European or American is accused jointly with a person not being an European or American, or an Indian British subject is accused jointly with a person not being an Indian, and such European, Indian British subject or American is committed for trial before a Court of Session, he and such other person may be tried together, but if he requires to be tried in accordance with the provisions of section 275 or section 284A and is so tried, and the other person accused requires to be tried separately, such other person shall be tried separately in accordance with the provisions of this Chapter.]

E.—Trial to Close of Cases for Prosecution and Defence.

Opening case for prosecution.

286. (1) When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code[2] or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused. XLV of 1860.

Examination of witnesses.

(2) The prosecutor shall then examine his witnesses.

Examination of accused before Magistrate to be evidence.

287. The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.[3]

Evidence given at preliminary inquiry admissible.

288. The evidence of a witness [4][duly recorded in the presence of the accused under Chapter XVIII] may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case [5][for all purposes subject to the provisions of the Indian Evidence Act, 1872[6].] I of 1872.

Procedure after examination of witnesses for prosecution.

289. (1) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

[1] This heading and section 285A were inserted by s. 17 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[2] General Acts, Vol. I.

[3] *See* the Indian Evidence Act, 1872 (I of 1872), s. 80, General Acts, Vol. II.

[4] These words and figures were substituted for the words "duly taken in the presence of the accused before the committing Magistrate" by s. 78 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[5] These words and figures were added by *ibid.*

[6] General Acts, Vol. II.

(2) If he says that he does not, the prosecutor may sum up his case; and, if the Court considers that there is no evidence that the accused committed the offence, it may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(3) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, the Court may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(4) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence

Defence

290. The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

Right of accused as to examination and summoning of witnesses.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections 211 and 231, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial

Prosecutor's right of reply

[1][**292.** The prosecutor shall be entitled to reply—

(*a*) if the accused or any of the accused adduces any oral evidence; or

(*b*) with the permission of the Court, on a point of law; or

(*c*) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence

Provided that, in the case referred to in clause (*c*) the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced.]

[1] Section 292 was substituted by s 79 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

View by jury or assessors

293. (*1*) Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

(*2*) Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

When juror or assessor may be examined.

294. If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

Jury or assessors to attend at adjourned sitting

295. If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Locking up jury.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day; and subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

F.—Conclusion of Trial in Cases tried by Jury.

Charge to jury.

297. In cases tried by jury, when the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Duty of Judge.

298. (*1*) In such cases it is the duty of the Judge—

(*a*) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(*b*) to decide upon the meaning and construction of all documents given in evidence at the trial;

(*c*) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(*d*) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

(2) The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations

(*a*) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved

(*b*) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed

It is the duty of the Judge to decide whether the original has been lost or destroyed

299. It is the duty of the jury— Duty of jury.

(*a*) to decide which view of the facts is true and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned;

(*b*) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not;

(*c*) to decide all questions which according to law are to be deemed questions of fact;

(*d*) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations

(*a*) A is tried for the murder of B

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted

It is the duty of the jury to decide which view of the facts is true and to return a [illegible] direction is right or [illegible]

[illegible] lief on a particular [illegible]

Each of these is a question for the jury.

Retirement to consider

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

Delivery of verdict.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.

Procedure where jury differ.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

Verdict to be given on each charge Judge may question jury.

303. *(1)* Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

Questions and answers to be recorded.

(2) Such questions and the answers to them shall be recorded.

Amending verdict

304. When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

Verdict in High Court when to prevail.

305. *(1)* When in a case tried before a High Court the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(2) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

Discharge of jury in other cases.

(3) If the Judge disagrees with the majority, he shall at once discharge the jury.

(4) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Verdict in Court of Session when to prevail

306. *(1)* When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(2) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall, [1][unless he proceeds in accordance with the provisions of section 562,] pass sentence on him according to law.

307. (*1*) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which [2][any accused person] has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case [3][in respect of such accused person] to the High Court, he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed, [4][and in such case, if the accused is further charged under the provisions of section 310, shall proceed to try him on such charge as if such verdict had been one of conviction] Procedure where Sessions Judge disagrees with verdict

(*2*) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which [5][such accused] has been tried, but he may either remand [5][such accused] to custody or admit him to bail

(*3*) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict [5][such accused] of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session

G.—Re-trial of Accused after Discharge of Jury.

308. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal. Re-trial of accused after discharge of jury

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[1] These words and figures were inserted by s 80 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] These words were substituted for the words "the accused" by s 81, *ibid.*

[3] These words were inserted by *ibid*

[4] These words and figures were added by *ibid*

[5] These words were substituted for the words "the accused" by *ibid*

H.—Conclusion of Trial in Cases tried with Assessors.

Delivery of opinions of assessors.

309. *(1)* When, in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded, the Court may sum up the evidence for the prosecution and defence, and shall then require each of the assessors to state his opinion orally [1][on all the charges on which the accused has been tried], and shall record such opinion, [1][and for that purpose may ask the assessors such questions as are necessary to ascertain what their opinions are. All such questions and the answers to them shall be recorded].

Judgment.

(2) The Judge shall then give judgment, but in doing so shall not be bound to conform to the opinions of the assessors.

(3) If the accused is convicted, the Judge shall, [1][unless he proceeds in accordance with the provisions of section 562], pass sentence on him according to law.

I.—Procedure in case of Previous Conviction.

Procedure in case of previous conviction.

[2][**310.** In the case of a trial by a jury or with the aid of assessors when the accused is charged with an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely:—

(a) Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until,

(i) he has been convicted of the subsequent offence, or

(ii) the jury have delivered their verdict, or the opinions of the assessors have been recorded, on the charge of the subsequent offence.

(b) In the case of a trial held with the aid of assessors, the Court may, in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction.]

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[1] These words were inserted by s. 82 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] Section 310 was substituted by s. 83, *ibid.*

311. Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872.[1] When evidence of previous conviction may be given.

I of 1872.

J.—List of Jurors for High Court, and summoning Jurors for that Court.

[2][**312.** The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors' list: Number of special jurors.

Provided that no definite number of Europeans or of Americans or of Indians shall be so prescribed.]

313. (*1*) The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules[3] as the High Court from time to time prescribes, prepare— Lists of common and special jurors.

(*a*) a list of all persons liable to serve as common jurors; and

(*b*) a list of persons liable to serve as special jurors only

(*2*) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

(*3*) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

(*4*) The Governor General in Council [4][or the Local Government] in the case of the High Court at Fort William in Bengal, and, in the case of other High Courts, the Local Government, [5]may exempt any salaried officer of Government from serving as a juror.

(*5*) The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said list as seems to him to be proper, and there shall be no appeal from, or review of, his decision. Discretion of officer preparing lists.

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[1] General Acts, Vol. II

[2] Section 312 was substituted by s 18 of the Criminal Law Amendment Act, 1923 (XII of 1923)

[3] For rules made by the High Court, Northern Provinces, under this section, in conjunction with s 276, *see* United Provinces and Oudh Gazette, 1902 Pt II, p 539; for rules by the High Court, Madras, under this section, *see* Mad R and O.; for rules by the High Court, Calcutta, *see* Ben R and O

[4] These words were inserted by s 2 and Sch I of the Devolution Act, 1920 (XXXVIII of 1920)

[5] For notification exempting a certain officer of Government from service as juror or assessor, *see* Bur R M

Publication of lists, preliminary and revised.

314. (*1*) Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

(*2*) Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

(*3*) Copies of the said lists shall be affixed to some conspicuous part of the court-house.

Number of jurors to be summoned.

315. (*1*) Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions [1][in the town which is the usual place of sitting of each High Court], [2][as many of those who are liable to serve on special or common juries respectively as the Clerk of the Crown considers necessary].

(*2*) No person shall be so summoned more than once in six months unless the number cannot be made up without him.

Supplementary summons.

(*3*) If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

Summoning jurors outside the place of sitting of High Courts

316. Whenever a High Court has given notice of its intention to hold sittings at any place outside the [3][town which is the usual place of sitting of such High Court] for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

Military jurors

317. (*1*) In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the Commanding Officer, cause to be summoned such number of commissioned and non-commissioned officers in Her Majesty's Army resident within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

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[1] These words were substituted for the words "in each presidency-town" by s. 84 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] These words were substituted for the words "at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries," by *ibid*.

[3] These words were substituted for the words "presidency-towns" by s. 85, *ibid*.

(2) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent ~~military~~ duty, or for any other special ~~military~~ reason.

Failure of jurors to attend.

318. Any person summoned under section 315, section 316 or section 317, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit; and, in default of payment of such fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid:

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

K.—List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court.

Liability to serve as jurors or assessors.

319. All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the district in which they reside, or, if the Local Government, on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed.

Amendment of section 320, Act V of 1898.

2. After clause (*a*) of section 320 of the Code of Criminal Procedure, 1898, the following clause shall be inserted, namely:—

"(*aa*) members of either Chamber of the Indian Legislature and members of a Legislative Council constituted under the Government of India Act;"

(*d*) police-officers and persons engaged in the Preventive Service in the Customs Department;

(*e*) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty;

(*f*) persons actually officiating as priests or ministers of their respective religions;

(*g*) persons in Her Majesty's Army, or Air force except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors;

(*h*) surgeons and others who openly and constantly practise the medical profession;

(*i*) legal practitioners (as defined by the Legal Practitioners' Act, 1879),[1] in actual practice; XVII 1879.

(*j*) persons employed in the Post-Office and Telegraph Departments;

(*k*) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641;[2]

(*l*) other persons exempted by the Local Government from liability to serve as jurors or assessors.

List of jurors and assessors.

321. (*1*) The Sessions Judge, and the Collector of the district or such other officer as the Local Government appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors or assessors and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (*b*) to (*h*), both inclusive.

(*2*) The list shall contain the name, place of abode and quality or business of every such person; and, if the person is an European or an American, the list shall mention the race to which he belongs.

Publication of list.

322. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the court-houses of the District Magistrate and of the District Court, and extracts therefrom in some conspicuous place in the town or towns in or near which the persons named in the extract reside.

Objections to list.

323. To every such copy or extract shall be sub-joined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the sessions court-house, and at a time to be mentioned in the notice.

Revision of list.

324. (*1*) For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror, or as an assessor, or who may establish his right to

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[1] General Acts, Vol. III

[2] *See* now the Code of Civil Procedure, 1908 (V of 1908), General Acts, Vol VI.

any exemption from service given by section 320 and insert the name of any person omitted from the list whom they deem qualified for such service.

(*2*) In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

(*3*) A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session

(*4*) Any order of the Sessions Judge and Collector or other officer a aforesaid in preparing and revising the list shall be final.

(*5*) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

Annual revision of list.

(*6*) The list so prepared and revised shall be again revised once in every year.

(*7*) The list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Preparation of list of special jurors.

325. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury

District Magistrate to summon jurors and assessors.

326. (*1*) The Sessions Judge shall ordinarily, seven days at least before the day which he may from time to time fix for holding the sessions, send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list[1] or the said special list as seem to the Sessions Judge to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any such trial [2][and including, where any accused person is an European or

[1] See Sch V, Forms XXXII and XXXIII respectively, *infra*

[2] These words were added by s 19 of the Criminal Law Amendment Act, 1923 (XII of 1923).

an American, as many Europeans or Americans as may be required for the purpose of choosing jurors or assessors for the trial.]

(2) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

[1][(3) Where the accused requires and is entitled to be tried under the provisions of section 275, there shall be chosen by lot, in the manner prescribed by or under section 276, from the whole number of persons returned the jurors who are to constitute the jury until a jury containing the proper number of Europeans or Europeans and Americans or of Indians, as the case may be, has been obtained:

Provided that, in any case in which the proper number of Europeans or Americans cannot otherwise be obtained, the Court may, in its discretion for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.]

[1][(4) Where, under the proviso to sub-section (3), the Court proposes to summon as a juror any person in His Majesty's Army, the provisions of section 317 shall apply in like manner as they apply for the purpose of the summoning of military jurors for a trial under section 316.]

Power to summon another set of jurors or assessors.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive or whenever for other reasons such direction is found to be necessary.

Form and contents of summons.

328. Every summons[2] to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

When Government or Railway servant may be excused.

329. When any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

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[1] These sub-sections were added by s. 19 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[2] *See* Sch. V, Forms XXXII and XXXIII, respectively, *infra*.

Court may excuse attendance of juror or assessor.

320. *(1)* The Court of Session may for reasonable cause excuse any juror or assessor from attendance at any particular session.

Court may relieve special jurors from liability to serve again as jurors for twelve months.

(2) The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

List of jurors and assessors attending.

331. *(1)* At each session the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

(2) Such list shall be kept with the list of the jurors and assessors as revised under section 324

(3) A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

Penalty for non-attendance of juror or assessor.

332. *(1)* Any person summoned to attend as a juror or as an assessor who without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court, after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

(2) Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

(3) For good cause shown, the Court may remit or reduce any fine so imposed.

(4) In default of recovery of the fine by attachment and sale, such juror or assessor may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

L.—Special Provisions for High Courts.

Power of Advocate General to stay prosecution.

333. At any stage of any trial before a High Court under this Code, before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further

prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of holding sittings

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

Place of holding sittings.

335. (*1*) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor General in Council in the case of the High Court at Fort William, or the Local Government in the case of the other High Courts, may direct.

(*2*) But it may, from time to time, in the case of the High Court at Fort William with the consent of the Governor General in Council, and in all other cases with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Notice of sittings.

(*3*) Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

336. [*Place of trial of European British subjects.*] *Omitted by s. 20 of Act XII of 1923.*

CHAPTER XXIV.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

Tender of pardon to accomplice.

337. [1][(*1*) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code[2] with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code,[2] namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional XLV of 1 XLV of 1

[1] Sub-sections (*1*) and (*1A*) were substituted for sub-section (*1*) by s. 86 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] General Acts, Vol. I.

Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof:

Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.]

[1][*(1A)* Every Magistrate who tenders a pardon under sub-section *(1)* shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record:

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

(2) Every person accepting a tender under this section shall be examined as a witness in [2][the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any.]

[3][*(2A)* In every case where a person has accepted a tender of pardon and has been examined under sub-section *(2)*, the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be.]

(3) Such person, [4][unless he is already on bail], shall be detained in custody until the termination of the trial [5]* * *.

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[1] *See* the first footnote on p. 158, *supra*.

[2] These words were substituted for the words "the case" by s. 86 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[3] This sub-section was added by *ibid*.

[4] These words were substituted for the words "if not on bail" by *ibid*.

[5] The words "by the Court of Session or High Court, as the case may be" were omitted by *ibid*.

[1] * * * * * * *

Power to direct tender of pardon.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

Commitment of person to whom pardon has been tendered.

339. (*1*) Where a pardon has been tendered under section 337 or section 338, and [2][the Public Prosecutor certifies that in his opinion] any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, [3][such person may be] tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter:

[4][Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made; in which case it shall be for the prosecution to prove that such conditions have not been complied with.]

(*2*) The statement made by a person who has accepted a tender of pardon may be given in evidence against him [5][at such trial].

(*3*) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

Procedure in trial of person under section 339.

[6][**339A.** (*1*) The Court trying under section 339 a person who has accepted a tender of pardon shall—

(*a*) if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (*1*), and

(*b*) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

[1] Sub-section (*4*) of section 337 was omitted by s. 86 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] These words were inserted by s. 87, *ibid.*

[3] These words were substituted for the words "he may be" by *ibid.*

[4] This proviso was added by *ibid.*

[5] These words were substituted for the words "when the pardon has been forfeited under this section" by *ibid.*

[6] Section 339A was inserted by s. 88, *ibid.*

(2) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court with the aid of the assessors, or the Magistrate, as the case may be, shall, before judgment is passed in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal.]

Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

[1][**340.** (1) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader.

(2) Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings.]

Procedure where accused does not understand proceedings.

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

Power to examine the accused.

342. (1) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.

(2) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

(3) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(4) No oath shall be administered to the accused.

[1] Section 340 was substituted by s. 89 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

No influence to be used to induce disclosures.

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

Power to postpone or adjourn proceedings.

[1]**344.** (*1*) If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Remand.

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

(*2*) Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

Reasonable cause for remand.

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Compounding offences

[2]**345.** (*1*) The offences punishable under the sections of the Indian Penal Code[3] [4][specified] in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table:— XLV [illegible]

Offence.	Sections of Indian Penal Code applicable.	Persons by whom offence may be compounded.
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.

[1] *Cf.* the Indictable Offences Act, 1848 (11 & 12 Vict., c 42), s 21

[2] For the section applicable instead of the [illegible] section to hill tribes to which the Kachin Hill [illegible] the Chin Hills Regulation, 1896 (V of 1896 [illegible] os 14 and 15, respectively, dated 30th June [illegible] *See* also Bur Code.

[illegible]

[illegible] "described" by s. 90 of the Code of Crim [illegible] XVIII of 1923).

Offence.	Sections of Indian Penal Code applicable.	Persons by whom offence may be compounded.
Assault or use of criminal force	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour	374	The person compelled to labour
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass	447	The person in possession of the property trespassed upon.
House trespass	448	
Criminal breach of contract of service	490, 491, 492	The person with whom the offender has contracted.
Adultery	497	The husband of the woman
Enticing or taking away or detaining with criminal intent a married woman.	498	
Defamation	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter	502	
Insult intended to provoke a breach of the peace	504	The person insulted
Criminal intimidation, except when the offence is punishable with imprisonment for seven years	506	The person intimidated.
[1][Act caused by making a person believe that he will be an object of divine displeasure	508	The person against whom the offence was committed.]

[2][(2) The offences punishable under the sections of the Indian Penal Code[3] specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table:—

XLV of 1860.

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Voluntarily causing hurt by dangerous weapons or means	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.

[1] This entry was added by s. 90 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] This sub section was substituted for sub-section (2) by *ibid*

[3] General Acts, Vol. I

(Part VI.—Proceedings in Prosecutions. Chapter XXIV.—General Provisions as to Inquiries and Trials.)

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	337	The person to whom hurt is caused
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining a person in secret.	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Dishonest misappropriation of property .	403	The owner of the property misappropriated.
Cheating . . .	417	The person cheated
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect	418	Ditto.
	419	Ditto.
	420	Ditto.
only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark .	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing	486	Ditto
M . husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it is intended to insult or whose privacy is intruded upon.]

(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) When the person who would otherwise be competent to compound an offence under this section is [1][under the age of eighteen years or is]

[1] These words were substituted for the words "a minor" by s. 90 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

an idiot or a lunatic, any person competent to contract on his behalf may [1][with the permission of the Court] compound such offence.

(*5*) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

[2][(*5A*) A High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section.]

(*6*) The composition of an offence under this section shall have the effect of an acquittal of the accused [3][with whom the offence has been compounded].

(*7*) No offence shall be compounded except as provided by this section.

Procedure of Provincial Magistrate in cases which he cannot dispose of

346. (*1*) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

(*2*) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

347. (*1*) If in any inquiry before a Magistrate, or in any trial before a Magistrate before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall [4]* * * commit the accused under the provisions hereinbefore contained.

(*2*) If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

Trial of persons previously convicted of offences

[5][**348.** (*1*)] Whoever, having been convicted of an offence punishable
XLV of 1860 under Chapter XII or Chapter XVII of the Indian Penal Code[6] with

[1] These words were inserted by s. 90 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[2] Sub-section (*5A*) was inserted by *ibid*.
[3] These words were added by *ibid*
[4] The words "stop further proceedings and" were omitted by s. 91, *ibid*.
[5] Renumbered by s. 92, *ibid*.
[6] General Acts. Vol 1.

against] coinage, stamp-law or property.

imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards, shall [1][if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused] be committed to the Court of Session or High Court, as the case may be, unless the Magistrate [2][is competent to try the case and] is of opinion that he can himself pass an adequate sentence if the accused is convicted:

Provided that, if [3][any Magistrate in the district] has been invested with powers under section 30, the case may be transferred to him instead of being committed to the Court of Session.

[4][(2) When any person is committed to the Court of Session or High Court under sub-section (*1*), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209.]

Procedure when Magistrate cannot pass sentence sufficiently severe.

[5]**349.** (*1*) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.

[6][(*1A*) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate.]

(2) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case, and may call for and take

[1] These words were inserted by s. 92 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] These words were substituted for the words "before whom the proceedings are pending" by *ibid*.

[3] These words were substituted for the words "the District Magistrate" by *ibid*.

[4] Sub-section (2) was added by *ibid*.

[5] In the Santhal Parganas, any person convicted or sentenced under this section by any Magistrate other than the Deputy Commissioner, may appeal to the Deputy Commissioner, and, if convicted or sentenced by the Deputy Commissioner, may appeal to the Commissioner as High Court—*see* s. 4 of the Santhal Parganas Justice Regulation, 1893 (V of 1893). B. and O. Code.

[6] This sub-section was inserted by s. 93 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law:

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

350. (*1*) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and recommence the inquiry or trial:

Provided as follows:—

(*a*) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;

(*b*) the High Court or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

(*2*) Nothing in this section applies to cases in which proceedings have been stayed under section 346 [1][or in which proceedings have been submitted to a superior Magistrate under section 349].

[2][(*3*) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter within the meaning of sub-section (*1*).]

Changes in constitution of Benches.

[3][**350A.** No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the

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[1] These words and figures were added by s. 94 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] This sub-section was added by *ibid.*

[3] Section 350A was inserted by s. 95, *ibid.*

Magistrates constituting the same have been present on the Bench throughout the proceedings.]

Detention of offenders attending Court.

351. (*1*) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inquiry into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned.

(*2*) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

Courts to be open

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

Evidence to be taken in presence of accused

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

Manner of recording evidence outside presidency-towns

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Record in summons-cases and in trials of certain offences by first and second class Magistrates.

[1]**355.** (*1*) In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (*1*) of section 260, clauses (*b*) to (*m*), both inclusive, when tried by a Magistrate of the first or second class and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

(*2*) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(*3*) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

Record in other cases outside presidency-towns.

356. (*1*) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates), and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in the language of the Court by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence and shall be signed by the Magistrate or

Memorandum when evidence not taken down by the Magistrate or Judge himself

(3) In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

(4) If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

Language of record of evidence

[1]**357.** (1) The Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so and shall cause the evidence to be taken down in writing from his dictation in open Court.

(2) The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record:

Provided that the Local Government may direct the Sessions Judge or Magistrate to take down the evidence in the English language, or in the language of the Court, although such language is not his mother-tongue.

Option to Magistrate in cases under section 355

358. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if within the local limits of the jurisdiction of such Magistrate the Local Government has made the order referred to in section 357, in the manner provided in the same section.

Mode of recording evidence under section 356 or section 357.

359. (1) Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

(2) The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down, any particular question and answer.

Procedure in regard to such evidence when completed.

360. (1) As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

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[1] *See* note to s 355, *supra*

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(3) If the evidence is taken down in a language different from that in which it has been given and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

361. (1) Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

Interpretation of evidence to accused or his pleader.

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

362. (1) In every case [1][tried by a Presidency Magistrate in which an appeal lies, such Magistrate] shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

Record of evidence in Presidency Magistrates' Courts

(2) Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may, in his discretion, take down, or cause to be taken down, any particular question or answer.

[2][(2A) In every case referred to in sub-section (1), the Magistrate shall make a memorandum of the substance of the examination of the accused. Such memorandum shall be signed by the Magistrate with his own hand, and shall form part of the record.]

(3) Sentences [3][unless they are sentences of imprisonment ordered to run concurrently] passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

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[1] These words were substituted for the words "in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months he" by s. 97 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] This sub-section was inserted by *ibid.*

[3] These words were added by *ibid*

[1][(4) In cases other than those specified in sub-section (1), it shall not be necessary for a Presidency Magistrate to record the evidence or frame a charge.]

Remarks respecting demeanour of witness.

363. When a Sessions Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Examination of accused how recorded

364. (1) Whenever the accused is examined by any Magistrate, or by any Court other than a High Court established by Royal Charter [2]* * * * [3]* * *

the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or in English: and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(2) When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge or such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and true account of the statement made by the accused.

(3) In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, [4]* * * * * * as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

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[1] This sub-section was added by s. 97 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] The words "or the Chief Court of the Punjab" were repealed by the Repealing and Amending Act, 1919 (XVIII of 1919).

[3] The words "or the Chief Court of Lower Burma" were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1923 (XI of 1923).

[4] The words "unless he is a Presidency Magistrate" were omitted by s. 2 of the Code of Criminal Procedure (Second Amendment) Act, 1923 (XXXVII of 1923).

(*4*) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263 [1][or in the course of a trial held by a Presidency Magistrate].

365. Every High Court established by Royal Charter [2]* [3]* * [4]* * * [5][shall] from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court, [6][and the evidence shall be taken down in accordance with such rule]. Record of evidence in High Court.

CHAPTER XXVI.

Of the Judgment.

366. (*1*) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,— Mode of delivering judgment.

(*a*) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence

(*2*) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader

(*3*) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders or any of them, the notice of such day and place

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[1] These words were substituted by s 2 of the Code of Criminal Procedure (Second Amendment) Act, 1923 (XXXVII of 1923), for the words and figures "or section 362, sub-section (2A)" which were inserted by s 98 of Act XVIII of 1923

[2] The word "and" was omitted, by the Lower Burma Courts Act, 1900 (VI of 1900) [illegible] Repealing and Amending Act, 1923 (XI of 1923)

[illegible] njab" were repealed by the Repealing and [illegible]

[illegible] ver Burma" were repealed by s. 3 and Sch. [illegible] (XI of 1923)

[illegible] "may" by s 99 of the Code of Criminal [illegible] f 1923)

[illegible] ords "and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed" by *ibid.*

(*4*) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

Language of judgment. Contents of judgment.

367. (*1*) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court [1][or from the dictation of such presiding officer] in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it [2][and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him].

Judgment in alternative.

(*2*) It shall specify the offence (if any) of which, and the section of the Indian Penal Code[3] or other law under which the accused is convicted, and the punishment to which he is sentenced. XLV of

(*3*) When the conviction is under the Indian Penal Code[3] and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same and pass judgment in the alternative. XLV of

(*4*) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(*5*) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed:

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury.

[4][(*6*) For the purposes of this section, an order under section 118 or section 123, sub-section (*3*), shall be deemed to be a judgment.]

Sentence of death.

368. (*1*) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Sentence of transportation.

(*2*) No sentence of transportation shall specify the place to which the person sentenced is to be transported.

Court not to alter judgment.

369. [5][Save as otherwise provided by this Code or by any other law for the time being in force or, in the case of a High Court established by

[1] These words were inserted by s. 100 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] These words were added by *ibid*.
[3] General Acts, Vol I.
[4] This sub-section was added by s. 100 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[5] These words were substituted for the words "No Court other than a High Court" by s. 101, *ibid*.

Royal Charter, by the Letters Patent of such High Court, no Court], when it has signed its judgment, shall alter or review the same, except [1]* * * to correct a clerical error.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars:— Presidency Magistrate's judgment

(*a*) the serial number of the case;

(*b*) the date of the commission of the offence;

(*c*) the name of the complainant (if any);

(*d*) the name of the accused person, and (except in the case of an European British subject) his parentage and residence;

(*e*) the offence complained of or proved:

(*f*) the plea of the accused and his examination (if any);

(*g*) the final order;

(*h*) the date of such order; and

(*i*) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

371. (*1*) On the application of the accused a copy of the judgment, or when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost Copy of judgment, etc., to be given to accused on application.

(*2*) In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall on the application of the accused, be given to him without delay and free of cost.

(*3*) When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred. Case of person sentenced to death.

372. The original judgment shall be filed with the record of proceedings, and, where the original is recorded in a different language from that of the Court and the accused so requires, a translation thereof into the language of the Court shall be added to such record. Judgment when to be translated.

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held. Court of Session to send copy of finding and sentence to District Magistrate.

[1] The words and figures "as provided in sections 395 and 484 or" were omitted by s. 101 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

Sentence of death to be submitted by Court of Session

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court[1] and the sentence shall not be executed unless it is confirmed by the High Court.

Power to direct further inquiry to be made or additional evidence to be taken

375. (*1*) If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(*2*) Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors or assessors, and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

(*3*) When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

Power of High Court to confirm sentence or annul conviction.

376. In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court—

(*a*) may confirm the sentence, or pass any other sentence warranted by law, or

(*b*) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(*c*) may acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

Confirmation or new sentence to be signed by two Judges.

377. In every case so submitted, the confirmation of the sentence or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

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[1] *See* Sch V, Form XXXIV, *infra*

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Procedure in case of difference of opinion.

379. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order under the seal of the High Court and attested with his official signature, to the Court of Session.

Procedure in cases submitted to High Court for confirmation.

380. Where proceedings are submitted to a Magistrate of the first class or a Sub-divisional Magistrate as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

Procedure in cases submitted by Magistrate to empowered to act under section 562.

CHAPTER XXVIII

OF EXECUTION.

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant[1] or taking such other steps as may be necessary.

Execution of order passed under section 376.

382. If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute[2] the sentence to transportation for life.

Postponement of capital sentence on pregnant woman.

383 Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in

Execution of sentences of transportation or imprisonment in other cases

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[1] *See* Sch V, Form XXXV and XXXVI, *infra*
[2] *See* Sch V, Form XXXVI, *infra*.

which he is, or is to be, confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

Direction of warrant for execution

384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail, or other place in which the prisoner is, or is to be, confined.

Warrant with whom to be lodged.

385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

Warrant for levy of fine.

[1][**386.** (*1*) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

(*a*) issue a warrant[2] for the levy of the amount by attachment and sale of any moveable property belonging to the offender;

(*b*) issue a warrant to the Collector of the District authorising him to realise the amount by execution according to civil process against the moveable or immoveable property, or both, of the defaulter:

Provided that, if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless for special reasons to be recorded in writing it considers it necessary to do so.

(*2*) The Local Government may make rules regulating the manner in which warrants under sub-section (*1*), clause (*a*), are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(*3*) Where the Courts issue a warrant to the Collector under sub-section (*1*), clause (*b*), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the [3]Code of Civil Procedure, 1908, and the nearest Civil Court by which V of 19 any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly:

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.]

[1] Section 386 was substituted by s. 102 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] *See* Sch. V, Form XXXVII, *infra.*
[3] General Acts, Vol. VI

[1]**387.** [2][A warrant issued under section 386, sub-section *(1)*, clause *(a)*, by any Court] may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the [3][attachment] and sale of any such property without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

Effect of such warrant.

[4][**388.** *(1)* When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may—

Suspension of execution of sentence of imprisonment.

(a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond,[5] with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section *(1)* shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith, and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in

[1] The provisions of ss 387 and 389 have been declared to apply to fines imposed *(1)* under the Andaman and Nicobar Islands Regulation 1876 (III of 1876)—*see* s 35 as amended by the Andaman and Nicobar Islands Regulation 1884 (I of 1884), s. 7, and (2) under the Police Act, 1861 (V of 1861), s 37 General Acts Vol I The provisions of section 387 have been extended under s 1 (2) to the Commissioner of Police, Calcutta, *see* Ben P. and O

[2] These words and figures were substituted for the words "Such warrant" by s 103 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[3] This word was substituted for the word "distress" by *ibid*

[4] Section 388 was substituted by s 3 of the Code of Criminal Procedure (Second Amendment) Act, 1923 (XXXVII of 1923)

[5] For form, *see* Sch V, Form XXXVIIA, *infra*

that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.]

Who may issue warrant

[1]**389.** Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office.

Execution of sentence of whipping only.

390. When the accused is sentenced to whipping only, the sentence shall [2][subject to the provisions of section 391] be executed at such place and time as the Court may direct.

Execution of sentence of whipping, in addition to imprisonment

391. (*1*) When the accused—

[3][(*a*) is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, or

(*b*) is sentenced to whipping in addition to imprisonment,]

the whipping shall not be inflicted until fifteen days from the date of the sentence, or if an appeal is made within that time, until the sentence is confirmed by the Appellate Court, but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

(*2*) The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

(3) No accused person shall be sentenced to whipping in addition to imprisonment, when the term of imprisonment to which he is sentenced is less than three months.

Mode of inflicting punishment

392. (*1*) In the case of a person of or over sixteen years of age whipping shall be inflicted with a light rattan not less than half an inch in diameter, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in such mode, and on such part of the person, and with such instruments, as the Local Government directs.[4]

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[1] See first footnote on p. 179, *supra*.

[2] These words and figures were inserted by s 21 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[3] These words were substituted for the words "is sentenced to whipping in addition to imprisonment in a case which is subject to appeal" by s 22, *ibid*

[4] For manner in which whipping shall be inflicted in—

(1) Assam, *see* Assam R and O.;
(2) Bombay, *see* Bom. R. and O ;
(3) Burma, *see* Bur R M ;
(4) Central Provinces, *see* C. P. R and O.;
(5) Coorg, *see* Coorg R and O ;
(6) Madras, *see* Mad. R and O ;

(2) In no case shall such punishment exceed thirty stripes [1][and, in the case of a person under sixteen years of age, it shall not exceed fifteen stripes]. Limit of number of stripes.

393. No sentence of whipping shall be executed by instalments: and none of the following persons shall be punishable with whipping, namely:— Not to be executed by instalments. Exemptions.

(a) females;

(b) males sentenced to death or to transportation or to penal servitude or to imprisonment for more than five years;

(c) males whom the Court considers to be more than forty-five years of age.

394. (1) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment. Whipping not to be inflicted if offender not in fit state of health.

(2) If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped. Stay of execution.

395. (1) In any case in which, under section 394, a sentence of whipping is wholly or partially prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months [2][or to a fine not exceeding five hundred rupees] which may be in addition to any other punishment to which he may have been sentenced for the same offence. Procedure if punishment cannot be inflicted under section 394.

(2) Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term [2][or a fine of an amount] exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

396. (1) When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and, if of Execution of sentences on escaped convicts.

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[1] These words were added by s. 7 of the Whipping Act, 1909 (IV of 1909), General Acts, Vol. VI, Appendix.

[2] These words were inserted by s. 105 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

imprisonment, penal servitude or transportation shall take effect according to the following rules, that is to say—

(2) If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

(3) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

Explanation.—For the purposes of this section—

(a) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment;

(b) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and

(c) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

Sentence on offender already sentenced for another offence

397. When a person already undergoing a sentence of imprisonment penal servitude or transportation, is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence at the expiration[1] of the imprisonment, penal servitude or transportation to which he has been previously sentenced, [2][unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence]:

Provided that, if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction is one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced:

[3][Provided, further, that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.]

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[1] In the case of a youthful offender, however, such sentences run concurrently—see s 32 of the Reformatory Schools Act, 1897 (VIII of 1897), General Acts, Vol IV.

[2] These words were inserted by s 106 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[3] This proviso was added by *ibid*

(*1*) Nothing in section 396 or section 397 shall be held to excuse on from any part of the punishment to which he is liable upon er or subsequent conviction. Saving as to sections 396 and 397.

When an award of imprisonment in default of payment of a fine ed to a substantive sentence of imprisonment, or to a sentence of tation or penal servitude for an offence punishable with impri-, and the person undergoing the sentence is after its execution go a further substantive sentence, or further substantive sen-of imprisonment, transportation or penal servitude, effect shall given to the award of imprisonment in default of payment of until the person has undergone the further sentence or sentences.

(*1*) When any person under the age of fifteen years is sentenced Criminal Court to imprisonment for any offence, the Court may ach person, instead of being imprisoned in a criminal jail, shall ned in any reformatory established by the Local Government as ce for confinement, in which there are means of suitable disci-nd of training in some branch of useful industry or which is kept rson willing to obey such rules as the Local Government pre-with regard to the discipline and training of persons confined Confinement of youthful offenders in reformatories.

All persons confined under this section shall be subject to the prescribed

This section shall not apply to any place in which the Reforma-hools Act, 1897,[1] is for the time being in force

). When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed. Return of warrant on execution of sentence

CHAPTER XXIX

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES

401. (*1*) When any person has been sentenced to punishment for an offence, ~~the Governor General in Council or~~ the ~~Local~~ Government may at any time without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced. Power to suspend or remit sentences.

(*2*) Whenever an application is made to ~~the Governor General in Council or~~ the ~~Local~~ Government for the suspension or remission of a

[1] General Acts, Vol IV, see s 3 of that Act.

(5) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897,[1] or section 188 of this Code. X of 1897.

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

Illustrations.

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or upon the same facts with theft [illegible] no charge of robbery; [illegible] when the murder was [illegible] bery.

(*c*) A is tried for causing grievous hurt and convicted The person injured afterwards dies. A may be tried again for culpable homicide

(*d*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*e*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of the section

(*f*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts

(*g*) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D A, B and C may afterwards be charged with, and tried for, dacoity on the same facts

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PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.[2]

Unless otherwise provided, no appeal to lie.

404. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

Appeal from order rejecting application for

405. Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any

[1] General Acts, Vol IV.

[2] For periods of limitation, see the Indian Limitation Act, 1908 (IX of 1908), Sch. I, second division, General Acts, Vol VI.

Court may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court. restoration of attached property.

[1][406. Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order— Appeal from order requiring security for keeping the peace or for good behaviour.

(*a*) if made by a Presidency Magistrate, to the High Court;

(*b*) if made by any other Magistrate, to the Court of Session:

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session:

Provided, further, that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (*2*) or sub-section (*3A*) of section 123.]

[2][406A. Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order,— Appeal from order refusing to accept or rejecting a surety

(*a*) if made by a Presidency Magistrate, to the High Court;

(*b*) if made by the District Magistrate, to the Court of Session; or

(*c*) if made by a Magistrate other than the District Magistrate, to the District Magistrate.]

407. (*1*) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 [3][or in respect of whom an order has been made or a sentence has been passed under section 380] by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate Appeal from sentence of Magistrate of the second or third class.

(*2*) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred. Transfer of appeals to first class Magistrate.

[1] Section 406 was substituted by s. 109 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] Section 406A was inserted by s. 110, *ibid*

[3] These words and figures were inserted by s. 111, *ibid*

Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.

[1]408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 [2][or in respect of whom an order has been made or a sentence has been passed under section 380] by a Magistrate of the first class, may appeal to the Court of Session:

Provided as follows:—

[3]* * * * * *

(b) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal [4][of all or any of the accused convicted at such trial] shall lie to the High Court;

(c) when any person is convicted by a Magistrate of an offence under section 124A of the Indian Penal Code,[5] the appeal shall lie to the High Court. XLV of 1

Appeals to Court of Session how heard.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge:

[6][Provided that an Additional Sessions Judge shall hear only such appeals as the Local Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him.]

Appeal from sentence of Court of Session.

410. Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court.

Appeal from sentence of Presidency Magistrate

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court, if the Magistrate has sentenced him to imprisonment for a term exceeding *six months or to fine exceeding two* hundred rupees.

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[1] As to appeals from decisions under the Frontier Crimes Regulation, 1901 (III of 1901), see Ch III of that Regulation, P. and N.-W. F. Code

[2] These words and figures were inserted by s 112 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[3] Clause (a) of the proviso to s. 408 was omitted by s 23 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[4] These words were inserted by s. 112 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[5] General Acts, Vol. I.

[6] This proviso was added by s. 113 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or any Presidency Magistrate or Magistrate of the first class on such plea, there shall be no appeal except as to the extent or legality of the sentence. No appeal in certain cases when accused pleads guilty.

413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session [1]* * * passes a sentence of imprisonment not exceeding one month only or [2][in which a Court of Session or District Magistrate or other Magistrate of the first class passes a sentence] of fine not exceeding fifty rupees only [3]* * *. No appeal in petty cases.

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

414. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence [4]* * of fine not exceeding two hundred rupees only, [5]* *. No appeal from certain summary convictions.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two or more of the punishments therein mentioned are combined, but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace. Proviso to sections 413 and 414.

Explanation.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

[6][**415A.** Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal.] Special right of appeal in certain cases.

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[1] The words "or the District Magistrate or other Magistrate of the first class" were omitted by s. 24 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[2] These words were inserted by *ibid.*

[3] The words "or of whipping only" were omitted by *ibid.*

[4] The words "of imprisonment not exceeding three months only, or" were omitted by s. 25, *ibid.*

[5] The words "or of whipping only" were omitted by *ibid.*

[6] Section 415A was inserted by s. 114 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

416. *[Saving of sentences on European British subjects.] Omitted by s. 26 of Act XII of 1923.*

Appeal on behalf of Government in case of acquittal.

417. The ~~Local~~ Provincial Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

Appeal on what matters admissible.

[1][**418.** (*1*)] An appeal may lie on a matter of fact as well as a matter of law except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

[2][(*2*) Notwithstanding anything contained in sub-section (*1*) or in section 423, sub-section (*2*), when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law.]

Explanation.—The alleged severity of a sentence shall, for the purposes of this section, be deemed to be a matter of law.

Petition of appeal.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367

Procedure when appellant in jail.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court

Summary dismissal of appeal.

421. (*1*) On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

(*2*) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

Notice of appeal.

422. If the Appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to

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[1] Section 418 was re-numbered by s 115 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] Sub-section (*2*) was added by *ibid.*

such officer as the Local Government may appoint[1] in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal;

and, in cases of appeals under section 417, the Appellate Court shall cause a like notice to be given to the accused.

[2]**423.** (*1*) The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under section 417, the accused if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may— Powers of Appellate Court in disposing of appeal.

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(*b*) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (2) alter the finding, maintaining the sentence, or with or without altering the finding, reduce the sentence, or (3), with or without such reduction and with or without altering the finding, alter the nature of the sentence, but, subject to the provisions of section 106, sub-section (*3*), not so as to enhance the same;

(*c*) in an appeal from any other order, alter or reverse such order;

(*d*) make any amendment or any consequential or incidental order that may be just or proper.

(*2*) Nothing herein contained shall authorize the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

... Mad R and O
Upper Burma, the Santhal
per Burma Criminal Justice
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e and the British Baluchis-
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ce Law and Justice Regula
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Judgments of subordinate Appellate Courts.

424. The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered

Order by High Court on appeal to be certified to lower Court.

425. *(1)* Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

(2) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court, and, if necessary, the record shall be amended in accordance therewith.

Suspension of sentence pending appeal. Release of appellant on bail.

426. *(1)* Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail or on his own bond.

(2) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

(3) When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

Arrest of accused in appeal from acquittal.

427. When an appeal is presented under section 417, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail

Appellate Court may take further evidence or direct it to be taken.

428. *(1)* In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(*2*) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(*3*) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of jurors or assessors.

(*4*) The taking of evidence under this section shall be subjected to the provisions of Chapter XXV, as if it were an inquiry.

Procedure where Judges of Court of Appeal are equally divided.

429. When the Judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Finality of orders on appeal.

430. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII.

Abatement of appeals.

431. Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant.

CHAPTER XXXII

OF REFERENCE AND REVISION.

Reference by Presidency Magistrate to High Court.

432. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon.

Disposal of case according to decision of High Court.

433. (*1*) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order

Direction as to costs.

(*2*) The High Court may direct by whom the costs of such reference shall be paid.

Power to reserve questions arising in original jurisdiction of High Court

434. (*1*) When any person has, in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

Procedure when question reserved

(*2*) If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail; and the High Court shall have power to review the case or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the High Court thinks fit.

Power to call for records of inferior Courts.

435. (*1*) The High Court or any Sessions Judge or District Magistrate or any Sub-divisional Magistrate empowered by the Local Government in this behalf, may call for and examine the record of any proceeding, before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court [1][and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record].

[2][*Explanation*.—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437.]

(*2*) If any Sub-divisional Magistrate acting under sub-section (*1*) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

[3]* * * * * * *

(*4*) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.

[1] These words were added by s. 116 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] This Explanation was added by *ibid.*
[3] Sub-section (*3*) was omitted by *ibid.*

[1][**436.**] On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make or direct any Subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (*3*) of section 204, or into the case of any [2][person accused of an offence] who has been discharged: Power to order inquiry.

[3][Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of shewing cause why such direction should not be made.]

[1][**437.**] When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged Power to order commitment.

Provided as follows:—

(*a*) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made;

(*b*) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

438. *(1) The Sessions Judge or District Magistrate may,* if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation th[illegible] sentence be reversed or altered, may order that the execution of [illegible] sentence be suspended, and, if the accused is in confinement, that [illegible] released on bail or on his own bond [illegible]

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[1] These sections which were originally numbered 437 and 436 res[illegible] numbered 436 and 437 by s. 117 of the Code of Criminal Procedure [illegible] 1923 (XVIII of 1923).

[2] These words were substituted for the words "accused pers[illegible]"

[3] This proviso was added by *ibid*

(2) An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him [1][by or under any general or special order of the Sessions Judge].

High Court's powers of revision.

439. (1) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections [2]*, 423, 426, 427 and 428 or on a Court by section 338, and may enhance the sentence; and when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(4) Nothing in this section applies to an entry made under section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

(5) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

[3][(6) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction.]

Optional with Court to hear parties.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision:

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (2).

[1] These words were substituted for the words "by the Sessions Judge" by s. 118 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[2] The figures "195" were omitted by s. 119, *ibid.*
[3] This sub-section was added by *ibid.*

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before over-ruling or setting aside the said decision or order. Statement by *Presidency* Magistrate of grounds of his decision to be considered by High Court.

442. When a case is revised under this Chapter by the High Court, it shall, in manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith. High Court's order to be certified to lower Court or Magistrate.

PART VIII.

SPECIAL PROCEEDINGS.

[1]CHAPTER XXXIII.

SPECIAL PROVISIONS RELATING TO CASES IN WHICH EUROPEAN AND INDIAN BRITISH SUBJECTS ARE CONCERNED.

443. (*1*) Where, in the course of the trial outside a presidency-town of any offence punishable with imprisonment, the accused person, at any time before he is committed for trial under section 213 or is asked to show cause under section 242 or enters on his defence under section 256, as the case may be, claims that the case ought to be tried under the provisions of this Chapter, the Magistrate inquiring into or trying the case, after making such inquiry as he thinks necessary, and after allowing the accused person reasonable time within which to adduce evidence in support of his claim, shall, if he is satisfied— Determination regarding applicability of this Chapter.

(*a*) that the complainant and the accused persons or any of them are respectively European and Indian British subjects or Indian and European British subjects, or

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[1] Chapter XXXIII (sections 443 to 449) was substituted al Chapter XXXIII (sections 443 to 463) by s. 27 of the Crimı Law Amendm 1923 (XII of 1923).

(*b*) that, in view of the connection with the case of both an European British subject and an Indian British subject, it is expedient for the ends of justice that the case should be tried under the provisions of this Chapter,

record a finding that the case is a case which ought to be tried under the provisions of this Chapter, or, if he is not so satisfied, record a finding that it is not such a case.

(*2*) Where the Magistrate rejects the claim, the person by whom it was made may appeal to the Sessions Judge, and the decision of the Sessions Judge thereon shall be final and shall not be questioned in any Court in appeal or revision.

(*3*) Where the Magistrate rejects the claim, he shall stay the proceedings until the expiration of the period allowed for the presentation of the appeal or, if an appeal is presented, until it has been decided.

Definition of "complainant."

444. For the purposes of section 443, "complainant" means any person making a complaint or, in relation to any case of which cognizance is taken under clause (*b*) of section 190, sub-section (*1*), any person who has given information relating to the commission of the offence within the meaning of section 154:

Provided that a Public Prosecutor, a public servant, a member, officer or servant of any local authority, a railway servant as defined in section 3 of the Indian Railways Act, 1890,[1] or an officer or servant of any IX of 1890. company, association or other body to which the Local Government may, by general or special order published in the local official Gazette, declare the provisions of this section to apply, shall not, by reason only of the fact that he has made a complaint of, or given information of, an offence in his capacity as such Public Prosecutor, public servant, railway servant, member, officer or servant, be deemed to be a complainant within the meaning of this section, nor shall a police-officer be so deemed by reason only of the fact that a report under section 173 relating to a case has been made by or through him.

Procedure in summons-cases.

445. (*1*) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a summons-case, the Magistrate trying the same shall direct that the case be referred to a Bench of two Magistrates and shall send a copy of such order to the District Magistrate who shall forthwith provide for the constitution of a Bench of two Magistrates of the first

[1] General Acts, Vol IV.

class, of whom one shall be an European and the other an Indian, for the trial of the case.

(2) Where the Magistrates constituting the Bench by which a case is tried under this section differ in opinion, the case, together with their opinions thereon shall be laid before the Sessions Judge, who may examine any party or recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall thereafter pass such judgment, sentence or order in the case as he thinks fit and as is according to law.

(3) Any person convicted by a Bench under this section shall have the same right of appeal as if he had been convicted by a Magistrate of the first class, and any person convicted by a Sessions Judge under sub-section (2) shall have the same right of appeal to the High Court as if he had been convicted by the Sessions Judge at a trial held by the Sessions Judge under this Code.

(4) In any case in which it is impracticable to constitute a Bench in accordance with the provisions of sub-section (1) in any district, the District Magistrate shall transfer the case for trial by a like Bench to such other district as the High Court may, by general or special order, direct

(5) Notwithstanding anything contained in this section, the Local Government may, by notification in the local official Gazette, direct that all summons-cases tried under the provisions of this Chapter in any district specified in the notification shall be tried as if they were warrant-cases in accordance with the provisions hereinafter in this Chapter laid down for the trial of warrant-cases.

446. (*1*) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a warrant-case, the Magistrate inquiring into or trying the case shall if he does not discharge the accused under section 209 or section 253, as the case may be, commit the case for trial to the Court of Session, whether the case is or is not exclusively triable by that Court. Procedure in warrant-cases.

(*2*) Where an accused is committed to the Court of Session under sub-section (*1*), the Court shall proceed to try the case as if the accused had required to be tried in accordance with the provisions of section 275, and the provisions of that section and the other provisions of Chapter XXIII, so far as they are applicable, shall apply accordingly:

Provided that where the trial before the Court of Session would in the ordinary course be with the aid of assessors and the accused, or all of

Custody of lunatic

[1][(2) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the Local Government:

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may have made under the [2]Indian Lunacy Act, 1912.] VI o

Resumption of inquiry or trial

467. (*1*) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(*2*) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure on accused appearing before Magistrate or Court.

468. (*1*) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(*2*) If the Magistrate or Court considers the accused [3]* to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be, [4][and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 466].

When accused appears to have been insane.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

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[1] This sub-section was substituted by s. 122 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] General Acts, Vol. VII.

[3] The word "person" was omitted by s. 123 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[4] These words were added by *ibid.*

470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not. *Judgment of acquittal on ground of lunacy.*

471. (*1*) Whenever [2][the finding] states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be [3][detained] in safe custody in such place and manner as the Magistrate or Court thinks fit, [4][and shall report the action taken to the Local Government] [5]* * *: *Person acquitted on such ground to be detained in safe custody.*

[6] Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as
1912. the Local Government may have made under the [7]Indian Lunacy Act, 1912.]

[8]* * * * * *

[9][(*2*)] The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or any of the functions of the Inspector General of Prisons under [10]*, * section 473 or section 474. *Power of Local Government to relieve Inspector General of certain functions.*

472. *Lunatic prisoners to be visited by Inspector General.* [*Rep. by Act IV of 1912.*]

473. If such person is [11][detained] under the provisions of section 466, and [12][in the case of a person detained in a jail, the Inspector General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum or any two of them] shall *Procedure where lunatic prisoner is reported capable of making his defence.*

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[1] *Cf.* the Criminal Lunatics Act, 1800 (39 & 40 Geo. III, c. 94).

[2] These words were substituted for the words "such judgment" by s. 124 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[3] This word was substituted for the word "kept" by *ibid.*

[4] *These words were inserted by ibid.*

[5] The words "and shall report the case for the orders of the Local Government" were repealed by s. 3 and Second Schedule of the Repealing and Amending Act, 1914 (X of 1914), General Acts, Vol. VIII.

[6] This proviso was inserted by s. 124 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[7] General Acts, Vol. VII.

[8] [illegible] of section 471 were repealed by the Indian Lunacy [illegible] Vol. VII.

[9] [illegible] numbered "(2)" by s. 124 of the Code of Criminal [illegible] VIII of 1923).

[10] [illegible] 472" were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (X of 1914), General Acts, Vol. VIII.

[11] This word was substituted for the word "confined" by s. 125 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[12] These words were substituted for the words "such Inspector General or visitors" by *ibid.*

certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic detained under section 466 or 471 is declared fit to be released.

474. (*1*) If such person is [1][detained] under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be [2][released] without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be [2][released], or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

(*2*) Such Commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, which may order his [3][release] or detention as it thinks fit.

Delivery of lunatic to care of relative or friend.

[4][**475.** (*1*) Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, the Local Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such Local Government that the person delivered shall—

(*a*) be properly taken care of and prevented from doing injury to himself or to any other person, and

(*b*) be produced for the inspection of such officer, and at such times and places, as the Local Government may direct, and

(*c*) in the case of a person detained under section 466, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(*2*) If the person so delivered is accused of any offence the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (*1*), clause (*b*), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate

[1] This word was substituted for the word "confined" by s. 126 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] This word was substituted for the word "discharged" by *ibid*.
[3] This word was substituted for the word "discharge" by *ibid*.
[4] Section 475 was substituted by s. 127, *ibid*.

or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production, the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence.]

CHAPTER XXXV.

Proceedings in case of certain Offences affecting the Administration of Justice.

Procedure in cases mentioned in section 195.

[1][476. (*1*) When any Civil, Revenue or Criminal Court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in section 195, sub-section (*1*), clause (*b*) or clause (*c*), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to a Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the

Amendment of section 476, Act V of 1898.

6. In sub-section (*1*) of section 476 of the said Code,—

(*a*) to the first paragraph the following proviso shall be added, namely:—

"Provided that, where the Court making the complaint is a High Court, the complaint may be signed by such officer of the Court as the Court may appoint."; and

(*b*) in the second paragraph the word "Chief" shall be omitted.

ner Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage adjourn the hearing of the case until such appeal is decided.]

Superior Court may complain where subordinate Court has omitted to do so.

[1][476A. The power conferred on Civil, Revenue and Criminal Courts by section 476, sub-section (*1*), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which

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[1] Sections 476, 476A and 476B were substituted for s. 476 by s. 128 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

such former Court is subordinate within the meaning of section 195, sub-section (*3*), in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.]

Appeals.

[1][**476B.** Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (*3*), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and if it makes such complaint the provisions of that section shall apply accordingly.]

477. (*Power of Court of Session as to such offences committed before itself.*) *Omitted by s. 129 of Act XVIII of 1923.*

Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.

478. (*1*) When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

(*2*) For the purposes of an inquiry under this section the Civil or Revenue Court may [2]* * * exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, [3][and of Chapter XXXIII in cases where that Chapter applies] and shall be deemed to have been held by a Magistrate

Procedure of Civil or Revenue Court in such cases.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorized to commit for trial, and such Magistrate

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[1] See foot note 1 on p 205, *supra*
[2] The words and figures "subject to the provisions of section 443" were omitted by s. 23 of the Criminal Law Amendment Act, 1923 (XII of 1923)
[3] These words and figures were inserted by *ibid*

shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

Procedure in certain cases of contempt.

480. (*1*) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code[1] is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender [2]* * * to be detained in custody[3] and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(45 of 1860)

(*2*) Nothing in [4][section 29A or in Chapter XXXIII] shall be deemed to apply to proceedings under this section.

Record in such cases.

481. (*1*) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(45 of 1860)

(*2*) If the offence is under section 228 of the Indian Penal Code,[1] the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

Procedure where Court considers that case should not be dealt with under section 480.

482. (*1*) If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate.

(*2*) The Magistrate, to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

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[1] General Acts, Vol. I.

[2] The words "whether he is a European British subject or not" were omitted by s. 29 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[3] *See* Sch. V, Form XXXVIII, *infra*.

[4] These words and figures were substituted for the words and figures "section 443 or section 444" by s. 29 of the Criminal Law Amendment Act, 1923 (XII of 1923).

such former Court is subordinate within the meaning of section 195, sub-section (*3*), in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.]

Appeals.

[1][**476B.** Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (*3*), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and if it makes such complaint the provisions of that section shall apply accordingly.]

477. (*Power of Court of Session as to such offences committed before itself.*) *Omitted by s. 129 of Act XVIII of 1923.*

Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.

478. (*1*) When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

(*2*) For the purposes of an inquiry under this section the Civil or Revenue Court may [2]* * * exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, [3][and of Chapter XXXIII in cases where that Chapter applies] and shall be deemed to have been held by a Magistrate.

Procedure of Civil or Revenue Court in such cases.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorized to commit for trial, and such Magistrate

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[1] See foot note 1 on p. 205, *supra*.

[2] The words and figures "subject to the provisions of section 443" were omitted by s. 23 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[3] These words and figures were inserted by *ibid*.

shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

480. (*1*) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code[1] is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender [2]* * * to be detained in custody[3] and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

1860

(*2*) Nothing in [4][section 29A or in Chapter XXXIII] shall be deemed to apply to proceedings under this section.

481. (*1*) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

Record in such cases.

1860 (*2*) If the offence is under section 228 of the Indian Penal Code,[1] the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

482. (*1*) If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate.

Procedure where Court considers that case should not be dealt with under section 480.

(*2*) The Magistrate, to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

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[1] General Acts, Vol. I.

[2] The words "whether he is a European British subject or not" were omitted by s. 29 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[3] *See* Sch. V, Form XXXVIII, *infra*.

[4] These words and figures were substituted for the words and figures "section 443 or section 444" by s. 29 of the Criminal Law Amendment Act, 1923 (XII of 1923).

(Part VIII.—Special Proceedings. Chapter XXXV.—Proceedings in case of certain Offences affecting the Administration of Justice.)

When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

483. When the Local Government so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877,[1] shall be deemed to be a Civil Court within the meaning of sections 480 and 482. III of 1877.

Discharge of offender on submission or apology.

484. When any Court has under section 480 [2][or section 482] adjudged an offender to punishment [2][or forwarded him to a Magistrate for trial] for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Imprisonment or committal of person refusing to answer or produce document.

485. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant[3] under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, *unless in the meantime such person consents to be examined and to* answer, or to produce the document or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

Appeals from convictions in contempt cases.

486. *(1)* Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes in a presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

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[1] *See* now the Indian Registration Act, 1908 (XVI of 1908), General Acts, Vol. VI.
[2] These words were inserted by s. 2 and first Schedule of the Repealing and Amending Act, 1914 (X of 1914), General Acts, Vol. VIII.
[3] *See* Sch. V, Form XXXIX, *infra*.

(4) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge, or, in the presidency-towns, to the High Court.

487 (*1*) Except as provided in sections [1]* * 480 and 485, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court * * * * [2], shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt[3] of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.

(*2*) Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

CHAPTER XXXVI.

Of the Maintenance of Wives and Children.

488. (*1*) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding [4][one hundred] rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Order for maintenance of wives and children.

(*2*) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

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[1] The figures "477" were omitted by s. 130 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] The words "and the Recorder of Rangoon" were repealed by the Lower Burma Courts Act, 1900 (VI of 1900). This Act has since been repealed by the Repealing and Amending Act, 1923 (XI of 1923).

[3] As to trials for contempt of authority of a Criminal Court or Magistrate in British [illegible] 1896 (VIII of 1896),

[illegible] 131 of the Code of [illegible]

Enforcement of order

(*3*) If any person so ordered [1][fails without sufficient cause] to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant[2] for levying the amount due in manner hereinbefore provided for levying fines,[3] and may sentence[4] such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing:

[5][Provided, further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due.]

(*4*) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(*5*) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

(*6*) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases:

Provided that if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte*. Any orders so made may be set aside for good cause shown on application made within three months from the date thereof.

* * * * * * *[6]

[1] These words were substituted for the words "wilfully neglects" by s. 131 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] *See* Sch. V, Form XLI, *infra*.

[3] *See* ss. 386 to 389, *supra*.

[4] *See* Sch. V, Form XL, *infra*.

[5] This proviso was added by s. 131 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[6] Original sub-section (7) was omitted by *ibid*.

[1][(7)] The Court in dealing with applications under this section shall have power to make such order as to costs as may be just.

[1][(8)] [2][Proceedings under this section may be taken against any person] in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

[3][**489.** (*1*)] On proof of a change in the circumstance of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit: Provided that if he increases the allowance the monthly rate of [4][one hundred] rupees in the whole be not exceeded. Alteration in allowance.

[5][(*2*) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.]

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due. Enforcement of order of maintenance.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A HABEAS CORPUS.

491. (*1*) [6][Any High Court] may, whenever it thinks fit, direct—

(*a*) that a person within the limits of its [7][appellate criminal jurisdiction] be brought up before the Court to be dealt with according to law; Power to issue directions of the nature of a *habeas corpus*

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[1] Sub sections (*8*) and (*9*) were re numbered respectively (*7*) and (*8*) by s. 131 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] These words were substituted for the words "The accused may be proceeded against" by *ibid.*

[3] This section was re-numbered by s 132, *ibid*

[4] These words were substituted for the word "fifty" by *ibid*

[5] This sub section was added by *ibid*

[6] These words were substituted for the words "Any of the High Courts of Judicature at Fort William, Madras and Bombay" by s 30 of the Criminal Law Amendment Act, 1923 (XII of 1923)

[7] These words were substituted for the words "ordinary original civil jurisdiction" by *ibid.*

(*b*) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(*c*) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(*d*) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any commission from the Governor General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;

(*e*) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(*f*) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

(*2*) [1][The High Court] may, from time to time, frame rules to regulate the procedure in cases under this section.

(*3*) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818,[2] Madras Regulation II of 1819,[3] or Bombay Regulation XXV of 1827,[4] or the State Prisoners Act, 1850,[5] or the State Prisoners Act, 1858.[5] III of 1 XXXII 1850 III of 1

Powers of High Court outside the limits of appellate jurisdiction.

[6][**491A.** Any High Court established by letters patent may exercise the powers conferred by section 491 in the case of any European British subject within such territories, other than those within the limits of its appellate criminal jurisdiction, as the Governor General in Council may direct.]

[1] These words were substituted for the words "Each of the said High Courts" by s. 30 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[2] Ben. Code

[3] Mad Code

[4] Bom. Code.

[5] General Acts, Vol. I.

[6] Section 491A was inserted by s 31 of the Criminal Law Amendment Act, 1923 (XII of 1923).

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

Of the Public Prosecutor.

Power to appoint Public Prosecutors.

492. (*1*) The Governor General in Council or the [1]Local Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(*2*) [2]* * * The District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below [3][such rank as the Local Government may prescribe in this behalf] to be Public Prosecutor for the purpose of [4][any case].

Public Prosecutor may plead in all Courts in cases under his charge. Pleaders privately instructed to be under his direction.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein, under his directions.

Effect of withdrawal from prosecution.

494. Any Public Prosecutor [5]* * * may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person [6][either generally or in respect of any one

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[1] For notification appointing Public Prosecutors in Bengal, *see* Ben. R. and O ; in [illegible]

[illegible]

[6] These words were inserted by *ibid*

or more of the offences for which he is tried]; and upon such withdrawal,—

(*a*) if it is made before a charge has been framed, the accused shall be discharged [1][in respect of such offence or offences];

(*b*) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted [1][in respect of such offence or offences]

Permission to conduct prosecution.

495. (*1*) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police[2] below the rank[3] to be prescribed by the Local Government in this behalf [4]* * * * but no person, other than the Advocate General, Standing Council, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Local Government in this behalf, shall be entitled to do so without such permission.

(*2*) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(*3*) Any person conducting the prosecution may do so personally or by a pleader.

(*4*) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX.[5]

OF BAIL.

In what cases bail to be taken.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, and is prepared

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[1] These words were added by s. 134 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] As to conduct of prosecutions by police-officers in Upper Burma notwithstanding anything in s. 495, see th[illegible] Regulation, 1892 (V of 1892), Schedule, art. XIV, Bur[illegible] chistan Criminal Justice Regulation.

[3] The rank of a sub-i[illegible] d in Burma, see Bur. R. M., that of [illegible] in Madras, see Mad. R. and O.

[4] The words "with the previous sanction of the Governor General in Council," were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920).

[5] The provisions of this Chapter and of Chapter XLII apply, as far as may be, to bail given and bonds executed under s. 132 (*1*) of the Railways Act, 1890 (IX of 1890), General Acts, Vol. IV.

at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond[1] without sureties for his appearance as hereinafter provided:

[2][Provided, further, that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (*4*), or section 117, sub-section (*3*).]

When bail may be taken in case of non-bailable offence.

497. (*1*) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of [3][an offence punishable with death or transportation for life]:

[4][Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail.]

(*2*) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed [5][a non-bailable offence], but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

[6][(*3*) An officer or a Court releasing any person on bail under sub-section (*1*) or sub-section (*2*) shall record in writing his or its reasons for so doing.]

[6][(*4*) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.]

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[1] *See* Sch. V, Form XLII, *infra*.
[2] This proviso was added by s. 135 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[3] These words were substituted for the words "the offence of which he is accused" by s. 136, *ibid*.
[4] This proviso was added by *ibid*.
[5] These words were substituted for the words "such offence" by *ibid*.
[6] These sub-sections were inserted by *ibid*.

[1][(5) A High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.]

Power to direct admission to bail or reduction of bail.

498. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive, and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced.

Bond of accused and sureties.

499. (1) Before any person is released on bail or released on his own bond, a bond[2] for such sum of money as the police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police-officer or Court, as the case may be.

(2) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

Discharge from custody.

500. (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release[2] to the officer in charge of the jail, and such officer on receipt of the order shall release him.

(2) Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Power to order sufficient bail when that first taken is insufficient.

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

Discharge of sureties.

502. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

[1] This sub section was substituted for original sub-section (5) by s. 136 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] See Sch V, Form XLII, infra.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

When attendance of witness may be dispensed with.

503. *(1)* Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

Issue of commission and procedure thereunder

(2) When the witness resides in the territories of any Prince or Chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(3) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he, or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

(4) Where the commission is issued to such officer as is mentioned in sub-section (2), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

Commission in case of witness being within presidency-town.

504. *(1)* If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to [1][such Presidency Magistrate], who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

[1] These words were substituted for the words "the said Presidency Magistrate" by s. 137 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[1][(*1A*) When a commission is issued under this section to a Chief Presidency Magistrate, he may delegate his powers and duties under the commission to any Presidency Magistrate subordinate to him.]

(*2*) Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the Slave Trade Act, 1876, section 3.[2] 39 & 40 Vict., c. 46.

Parties may examine witnesses.

505. (*1*) The parties to any proceeding under this Code in which a commission is issued, may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate or officer to whom the commission is directed, [3][or to whom the duty of executing such commission has been delegated] shall examine the witness upon such interrogatories.

(*2*) Any such party may appear before such Magistrate or officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

Power of provincial subordinate Magistrate to apply for issue of commission.

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, [illegible] the reasons [illegible] ssue a commission in the manner hereinbefore provided or reject the application.

Return of commission.

507. (*1*) After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(*2*) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872,[4] may also be received in evidence at any subsequent stage of the case before another Court. I of 1872.

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[1] This sub-section was inserted by s. 137 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] Coll. Stat., Vol. I.
[3] These words were inserted by s. 133 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[4] General Acts, Vol. II.

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission. Adjournment of inquiry or trial.

CHAPTER XLI.

Special Rules of Evidence.

509. (*1*) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness. Deposition of medical witness.

(*2*) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition. Power to summon medical witness.

510. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code Report of Chemical Examiner.

511. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force— Previous conviction or acquittal how proved.

(*a*) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order, or,

(*b*) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered;

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

512. (*1*) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained Record of evidence in absence of accused.

of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of evidence when offender unknown.

(2) If it appears that an offence punishable with death or transportation has been committed by some person or persons unknown, the High Court may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of British India.

CHAPTER XLII.

Provisions as to Bonds.

Deposit instead of recognizance

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Procedure on forfeiture of bond.

[1], [2]**514.** *(1)* Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.[3]

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[1] *See* the third foot-note on p 74, *supra*
[2] This section has been declared to apply to the security required by s 31A of the Rangoon Police Act, 1899 (Bur. Act IV of 1899), Bur Code
[3] *See* Sch V, Forms XLIV to LIII, *infra*

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant[1] for the attachment and sale of the moveable property belonging to such person or his estate if he be dead

(3) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorize the [2][attachment] and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

(4) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

(5) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(6) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond [3]* * *.

[4][(7) When any person who has furnished security under section 106 or section 118 or section 562 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 514B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved]

[5][**514A.** When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 514, the Court, by whose order such bond was taken, or a Presidency Magistrate or Magistrate of the first class, may order the person from whom such security was demanded to furnish fresh security Procedure in case of insolvency or death of surety or when a bond is forfeited

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[1] *See* Sch V, Forms XLIV to LIII, *infra*

[2] This word was substituted for the word "distress" by s 139 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[3] The words "but the party who gave the bond may be required to find a new surety" were omitted by *ibid*.

[4] This sub section was inserted by *ibid*

[5] Section 514A was inserted by s. 140, *ibid*

in accordance with the directions of the original order, and, if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.]

Bond required from a minor.

[1][**514B.** When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.]

Appeal from, and revision of, orders under section 514.

[2]**515.** All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate, shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

Power to direct levy of amount due on certain recognizances.

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

CHAPTER XLIII.

Of the Disposal of Property.

Order for custody and disposal of property pending trial in certain cases.

[3][**516A.** When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.]

Order for disposal of property regarding which offence committed.

517. (*1*) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal [4][by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise] of any property or document produced before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(*2*) When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

[1] Section 514B was inserted by s. 140 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] Section 515 has been declared to apply to the security required by s. 31A of the Rangoon Police Act, 1899 (Bur. Act IV of 1899), Bur. Code.

[3] Section 516A was inserted by s. 141 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[4] These words were inserted by s. 142, *ibid.*

[1][(3) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.]

[2][(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal.]

[3]*Explanation.*—In this section the term "property" includes in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Order may take form of reference to District or Sub-divisional Magistrate.

[4]**519.** When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Payment to innocent purchaser of money found on accused

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

[1] This sub-section was inserted by s 142 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

Vict., c. 35), s 9

Destruction of libellous and other matter.

521. *(1)* On a conviction under the Indian Penal Code,[1] section 292, section 293, section 501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted. XLV of 1860.

(2) The Court may, in like manner, on a conviction under the Indian Penal Code,[1] section 272, section 273, section 274 or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed. XLV of 1860.

Power to restore possession of immoveable property

522. *(1)* Whenever a person is convicted of an offence attended by criminal force [2][or show of force or by criminal intimidation] and it appears to the Court that by such force [2][or show of force or criminal intimidation] any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, [2][when convicting such person or at any time within one month from the date of the conviction] order [3][the person dispossessed] to be restored to the possession of the same.

(2) No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

[4][*(3)* An order under this section may be made by any Court of appeal, confirmation, reference or revision.]

Procedure by police upon seizure of property taken under section 51 or stolen.

523. *(1)* The seizure by any police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

Procedure where owner of property seized unknown.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

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[1] General Acts, Vol. I

[2] These words were inserted by s. 143 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[3] These words were substituted for the words "such person" by *ibid*

[4] This sub-section was added by *ibid*.

524. (*1*) If no person within such period establishes his claim to such property and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, or of a Magistrate of the first class empowered by the Local Government in this behalf. Procedure where no claimant appears within six months.

(*2*) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

525. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, [1][or if the Magistrate] to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, [2][or that the value of such property is less than ten rupees] the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale. Power to sell perishable property.

CHAPTER XLIV.

Of the Transfer of Criminal Cases.

526. (*1*) Whenever it is made to appear to the High Court[3]:— High Court may transfer case or itself try it.

(*a*) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(*b*) that some question of law of unusual difficulty is likely to arise, or

(*c*) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(*d*) that an order under this section will tend to the general convenience of the parties or witnesses, or

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Magistrate" by [illegible] of 1923).

North-West [illegible] be committed [illegible] ice Regulation, [illegible]

(e) that such an order is expedient for the ends of justice, or is required by any provision of this Code; it may order—

(i) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular [1]* case or appeal, or class of [2]* cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular [1]* case or appeal be transferred to and tried before itself; or

(iv) that an accused person be committed for trial to itself or to a Court of Session.

(2) When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn

(3) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

(4) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation.

(5) When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if [3][so ordered], pay [4][any amount which the High Court has power under this section to award by way of costs to the person opposing the application].

Notice to Public Prosecutor of application under this section.

(6) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

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[1] The word "criminal" was omitted by s. 145 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[2] The word "such" was omitted by *ibid*
[3] These words were substituted for the word "convicted" by *ibid.*
[4] These words were substituted for the words "the costs of the prosecutor" by *ibid*

[1][(6A) Where any application for the exercise of the power conferred by this section is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of costs to any person who has opposed the application any expenses reasonably incurred by such person in consequence of the application.]

(7) Nothing in this section shall be deemed to affect any order made under section 197.

Adjournment on application under this section

[2][(8) If, in the course of any inquiry or trial, or before the commencement of the hearing of any appeal, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under this section in respect of such case or appeal, the Court shall adjourn the case or postpone the appeal for such a period as will afford a reasonable time for the application to be made and an order to be obtained thereon.]

[2][(9) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (8) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it.]

29 & 30 Vict., c. 109
44 & 45 Vict., c. 58.
7 & 8 Geo 5 c. 51.

High Court to transfer for trial to itself in certain cases.

[3][**526A.** (1) Where any person subject to the [4]Naval Discipline Act or to the [4]Army Act or to the Air Force Act is accused of any offence such as is referred to in proviso (a) to section 41 of the Army Act, the Advocate General shall, if so instructed by the competent authority, apply to the High Court for the committal or transfer of the case to that High Court and thereupon the High Court shall order that the case be committed for trial to or be transferred to itself and shall thereafter proceed to try the case by jury.

(2) The Governor General in Council may, by notification in the Gazette of India, declare any officer to be the competent authority for the purpose of issuing instructions under sub-section (1) in regard to any class of cases specified in the notification.]

Power of Governor General in Council to

527. (1) The Governor General in Council may, by notification in the Gazette of India, direct the transfer of any particular [5]* case or appeal from one High Court to another High Court, or from any Criminal

[1] This sub-section was inserted by s 145 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] Sub sections (8) and (9) were substituted for sub-section (8) by *ibid*
[3] Section 526A was inserted by s 32 of the Criminal Law Amendment Act, 1923 (XII of 1923)
[4] Collection of Statutes relating to India.
[5] The word "criminal" was omitted by s 146 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

(Part IX.—Supplementary Provisions. Chapter XLIV.—Of the Transfer of Criminal Cases. Chapter XLIVA.—Supplementary provisions relating to European and Indian British subjects and others.)

transfer cases and appeals.

Court subordinate to one High Court, to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

(*2*) The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

Sessions Judge may withdraw cases from Assistant Sessions Judge.

528. [1][(*1*) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Assistant Sessions Judge subordinate to him.]

District or Sub-divisional Magistrate may withdraw or refer cases.

[2][(*2*)] Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Power to authorize District Magistrate to withdraw classes of cases.

[2][(*3*)] The Local Government may authorize the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

[3][(*4*) Any Magistrate may recall any case made over by him under section 192, sub-section (*2*), to any other Magistrate and may inquire into or try such case himself.]

[2][(*5*)] A Magistrate making an order under this section shall record in writing his reasons for making the same.

[4][(*6*) The head of a village under the [5]Madras Village-police Regulation, 1816, or the [5]Madras Village-police Regulation, 1821, is a Magistrate for the purposes of this section.] XI of 1[…] IV of 18[…]

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[6][CHAPTER XLIVA.

SUPPLEMENTARY PROVISIONS RELATING TO EUROPEAN AND INDIAN BRITISH SUBJECTS AND OTHERS.

Procedure of claim of a person to be

528A. (*1*) Where, in any case to which the provisions of Chapter XXXIII do not apply, any person claims to be dealt with as an

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[1] This sub-section was substituted by s. 147 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] Original sub-sections (*1*), (*2*) and (*3*) were re-numbered (*2*), (*3*) and (*5*) respectively by *ibid.*

[3] This sub-section was inserted by *ibid.*

[4] This sub-section was substituted for original sub-section (*4*) after it was re-numbered as sub-section (*6*), by *ibid.*

[5] Madras Code, Vol. I.

[6] Chapter XLIVA was inserted by s. 33 of the Criminal Law Amendment Act, 1923 (XII of 1923).

dealt with as European or Indian British subject, or as European or American.

European or Indian British subject, or where any person claims to be dealt with as an European (other than an European British subject) or an American, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purpose of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall deal with him accordingly.

(2) When any such claim is rejected by the Magistrate and the person by whom it was made is committed by the Magistrate for trial before the Court of Session, and such person repeats the claim before such Court, such Court shall, after such further inquiry, if any, as it thinks fit, decide the claim, and shall deal with such person accordingly.

(3) When any Court before which any person is tried rejects any such claim as aforesaid the decision shall form a ground of appeal from the sentence or order passed in such trial

Failure to plead status waiver.

528B. If in any such case an European or Indian British subject or an European (other than an European British subject) or an American does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before and rejected by the committing Magistrate, it is not repeated before the Court to which such person is committed, he shall be held to have relinquished his right to be dealt with as an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall not assert it in any subsequent stage of the case.

Trial of person as belonging to class to which he does not belong

528C. Where a person, not being an European British subject, is dealt with as an European British subject or, not being an Indian British subject, is dealt with as an Indian British subject or, not being an European (other than an European British subject) or American, is dealt with as an European or American, and such person does not object, the inquiry, commitment, trial, or sentence, as the case may be, shall not, by reason of such dealing, be invalid

Application of Acts conferring jurisdiction on Magistrates or Courts of Session

528D (1) Unless there is something repugnant in the context, all enactments made by the Central Government ~~Governor General in Council or the Indian Legislature~~ which confer on Magistrates or on the Court of Session jurisdiction over offences shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

(2) Nothing in this section shall be deemed to authorise any Court to exceed the limits prescribed by this Code as to the amount of punishment which it may inflict on an European British subject or to confer jurisdiction on any Magistrate of the second or third class for the trial of such subjects.]

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS.

Irregularities which do not vitiate proceedings.

529. If any Magistrate not empowered by law to do any of the following things, namely:—

(*a*) to issue a search-warrant under section 98;

(*b*) to order, under section 155, the police to investigate an offence:

(*c*) to hold an inquest under section 176;

(*d*) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits;

(*e*) to take cognizance of an offence under section 190, sub-section (*1*), clause (*a*) or clause (*b*);

(*f*) to transfer a case under section 192;

(*g*) to tender a pardon under section 337 or section 338;

(*h*) to sell property under section 524 or section 525; or

(*i*) to withdraw a case and try it himself under section 528;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate proceedings.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

(*a*) attaches and sells property under section 88;

(*b*) issues a search-warrant for a letter, parcel or other thing in the Post Office, or a telegram in the Telegraph Department;

(*c*) demands security to keep the peace;

(*d*) demands security for good behaviour;

(*e*) discharges a person lawfully bound to be of good behaviour;

(*f*) cancels a bond to keep the peace;

(*g*) makes an order under section 133 as to a local nuisance;

(h) prohibits, under section 143, the repetition or continuance of a public nuisance;

(i) issues an order under section 144;

(j) makes an order under Chapter XII;

(k) takes cognizance, under section 190, sub-section (1), clause (c), of an offence;

(l) passes a sentence, under section 349, on proceedings recorded by another Magistrate;

(m) calls, under section 435, for proceedings;

(n) makes an order for maintenance;

(o) revises, under section 515, an order passed under section 514;

(p) tries an offender;

(q) tries an offender summarily; or

(r) decides an appeal;

his proceedings shall be void.

Proceedings in wrong place.

531. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

When irregular commitments may be validated.

532. (1) If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

(2) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

Non-compliance with provisions of section 164 or 364.

533. (1) If any Court, before which a confession or other statement of an accused person recorded or purporting to be recorded under section 164 or section 364 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded; and, notwithstanding

anything contained in the Indian Evidence Act, 1872,[1] section 91, such statement shall be admitted if the error has not injured the accused as to his defence on the merits. I of 1872.

(*2*) The provisions of this section apply to Courts of Appeal, Reference and Revision.

Omission to give information under section 447.

[2][534. An omission to inform under section 447 any person of his rights under Chapter XXXIII shall not affect the validity of any proceeding.]

Effect of omission to prepare charge.

535. (*1*) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

(*2*) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

Trial by jury of offence triable with assessors.

536. (*1*) If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

Trial with assessors of offence triable by jury.

(*2*) If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

[3]537. [4]Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account—

(*a*) of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or

[5]* * * * * *

[1] General Acts, Vol. II.

[2] Section 534 was substituted by s 34 of the Criminal Law Amendment Act, 1923 (XII of 1923).

[3] *Cf.* the Summary Jurisdiction Act, 1847-1848 (11 & 12 Vict, c 43), s 9.

[4] In Upper Burma, in British Baluchistan, and in the Santhal Parganas, orders are not reversible on appeal or revision on technical grounds alone—*see* respectively the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art XV, Bur. Code, the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 19, Bal Code, and s 4 (VII) of the Santhal Parganas Justice Regulation, 1893 (V of 1893), B and O. Code

[5] Clause (*b*) was omitted by s 148 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

(c) of the omission to revise any list of jurors or assessors in accordance with section 324, or

(d) of any misdirection in any charge to a jury unless such error, omission, irregularity, [1] or misdirection has in fact occasioned a failure of justice.

Explanation.—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

[2] * * * * * * *

538. No [3][attachment] made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of [3][attachment] or other proceedings relating thereto.

Attachment not illegal, person making same not trespasser for defect or want of form in proceedings

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CHAPTER XLVI

MISCELLANEOUS

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

Courts and persons before whom affidavits may be sworn.

[4][539A. (*1*) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

Affidavit in proof of conduct of public servant.

An affidavit to be used before any Court other than a High Court under this section may be sworn or affirmed in the manner prescribed in section 539, or before any Magistrate.

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[1] The word "want" was omitted by s 148 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] The *Illustration* was omitted by *ibid*

[3] This word was substituted for the word "distress" by s 149, *ibid*

[4] Section 539A was inserted by s 150, *ibid*

Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable grounds to believe to be true, and, in the latter case, the deponent shall clearly state the grounds of such belief.

(2) The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended.]

Local inspection.

[1][539B. (1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost:

Provided that, in the case of a trial by jury or with the aid of assessors, the Judge shall not act under this section unless such jury or assessors are also allowed a view under section 293.]

Power to summon material witness or examine person present

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

Provisions for inquiries and trial being held in the absence of accused in certain cases.

[2][540A. (1) At any stage of an inquiry or trial under this Code, where two or more accused are before the Court, if the Judge or Magistrate is satisfied, for reasons to be recorded, that any one or more of such accused is or are incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.]

[1] Section 539B was inserted by s. 150 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] Section 540A was inserted by s. 151, *ibid.*

541. (*1*) Unless when otherwise provided by any law for the time being in force, the Local Government may direct in what place[1] any person liable to be imprisoned or committed to custody under this Code shall be confined.

Power to appoint place of imprisonment.

(*2*) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil jail.

(*3*) When a person is removed to a criminal jail under sub-section (2), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure[2]; or

32

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.[2]

52.

542. (*1*) Notwithstanding anything contained in the *Prisoner's Testimony Act, 1869*,[3] any Presidency Magistrate desirous of examining, as a witness or an accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

69.

Power of Presidency Magistrate to order prisoner in jail to be brought up for examination.]'

(*2*) The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Interpreter to be bound to interpret truthfully.

544. Subject to any rules made by the Local Government, [4]* * * any Criminal Court may, if it thinks fit, order payment, on the part of

Expenses of complainants and witnesses.

[1] A place so appointed is not a "prison" within the meaning of s 3 (*1*) (*b*) of the Prisons Act, 1894 (IX of 1894) General Acts, Vol IV

... confinement of European British subjects to be ... the Code, see Ben R and O ... (V of 1908), s 58, General Acts, Vol VI, and ... 1920), s 27 ... 000), General Acts, Vol V

[4] The words "with the previous sanction of the Governor General in Council," were omitted by s 2 and Sch I of the Devolution Act, 1920 (XXXVIII of 1920).

Q 2

Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.[1]

Power of Court to pay expenses or compensation out of fine

[2]**545.** (*1*) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(*a*) in defraying expenses properly incurred in the prosecution;

[3][(*b*) in the payment to any person of compensation for any loss or injury caused by the offence, when substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court];

[4][(*c*) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bonâ fide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.]

(*2*) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

Payments to be taken into account in subsequent suit.

546. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 545.

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[1] For rules made in exercise of these powers, for—
(*1*) Ajmere-Merwara, *see* Aj R and O ,
(*2*) Assam, *see* Assam R and O ,
(*3*) Bombay, *see* Bom. R. and O ,
(*4*) Burma, *see* Bur. R M ;
(*5*) Central Provinces, *see* C. P. R and O ,
(*6*) Madras, *see* Mad R and O ;
(*7*) Punjab, *see* Punj R and O.;
(*8*) United Provinces, *see* U. P. R and O

[2] In Upper Burma, the Court imposing a fine or confirming a sentence of an officer under s 9 (*4*) of the Upper Burma Ruby Regulation, 1887 (XII of 1887), may presume, for the purposes of s 545, that injury has been caused by the offence, and that substantial compensation is recoverable by civil suit in respect to the injury—*see* s 9 (5) of that Regulation, Bur. Code

[3] This clause was substituted by s 152 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[4] This clause was added by *ibid*

Order of payment of certain fees paid by complainant in non cognizable cases

[1][546A. (*1*) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant—

(*a*) the fee (if any) paid on the petition of complaint, or for the examination of the complainant, and

(*b*) any fees paid by the complainant for serving processes on his witnesses or on the accused,

and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(*2*) An order under this section may also be made by an Appellate Court, or by the High Court, when exercising its powers of revision.]

Moneys ordered to be paid recoverable as fines.

547. Any money (other than a fine) payable by virtue of any order made under this Code, [2][and the method of recovery of which is not otherwise expressly provided for] shall be recoverable as if it were a fine.

Copies of proceedings

548. If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury or of any order or deposition or other part of the record he shall, on applying for such copy, be furnished therewith:

Provided that he pays for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

Delivery to military authorities of persons liable to be tried by Court-martial

549. (*1*) The Governor General in Council may make[3] rules consistent with this Code and the Army Act[4] or any similar law for the time being in force as to the cases in which persons subject to military law shall be tried by a Court to which this Code applies, or by Court-martial,[3] and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act,[4] section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.

Apprehension of such persons.

(*2*) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence

[1] Section 546A was inserted by s 153 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] These words were inserted by s 154, *ibid*

[3] For notification making rules as to cases in which persons subject to military law shall be tried by a Court to which this Code applies or by a Court-martial, *see* Gazette of India, 1902, Pt I p 383, Gen Stat R and O

[4] Coll Stat, Vol II

Powers to Police to seize property suspected to be stolen.

550. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

Powers of superior officers of police.

551. Police-officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

Power to compel restoration of abducted females

552. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of ~~fourteen~~ years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Compensation to persons groundlessly given in charge in presidency town.

553. *(1)* *Whenever any person causes* a police-officer to arrest another person in a presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

(2) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

(3) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

Power of chartered High Courts to make rules for inspection of records of subordinate Courts.

554. *(1)* With the previous sanction of the Governor General in Council, the High Court at Fort William, and, with the previous sanction of the Local Government, any other High Court established by Royal Charter, may, from time to time, make rules for the inspection of the records of subordinate Courts.

(2) Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,— Power of other High Courts to make rules for other purposes.

(*a*) make [1]rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(*b*) frame[2] forms for every proceeding in the said Courts for which it thinks that a form should be provided[3];

(*c*) [4]make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it[5]; and

(*d*) make rules for regulating the execution of warrants issued under this Code for the levy of fines:

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(3) All rules made under this section shall be published in the local official Gazette.

555. Subject to the power conferred by section [554],[6] and by section [7][107 of the Government of India Act, 1915], the forms set forth in the fifth schedule, with such variation as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient. Forms.

556. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any Case in which Judge or Magistrate is personally interested.

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[1] For rules for the preparation and transmission of statements in Coorg, *see* Coorg District Gazette, 1907, Pt I, p 51

For rules under this section by the Court of the Judicial Commissioner in Sindh, *see* Bom R and O

[2] For forms of Criminal Registers for Ajmere Merwara, *see* Aj R and O

[3] For notification by the Judicial Commissioner, Upper Burma, *see* Bur. R. M

For rule by Judicial Commissioner, Upper Burma, *see* Bur R M

[4] In Upper Burma, the Santhal Parganas and in British Baluchistan, rules under s 554 (2) (*c*) may regulate (*a*) fees for processes, and (*b*) the fees to be paid for copies and inspection of records—*see* respectively the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art XVI, Bur Code, the Santhal Parganas Justice Regulation, 1893 (V of 1893), s 4 (VIII), B and O Code, and the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art 20, Bal Code

[5] For rules regulating the practice of the Chief Court of Lower Burma and of subordinate Criminal Courts in trials or appeals in which military policemen or reservists of the Native Army are concerned, *see* Bur P M

For rules by the Judicial Commissioner in Sindh *see* Bom R and O

[6] These figures were substituted for the fig [illegible]
ing Act, 1903 (I of 1903)—*see* Part II of the [illegible]

[7] These words and figures were substituted [illegible]
High Courts Act, 1861 " by s 2 and Schedule [illegible]
General Acts Vol VIII

case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed a party, or personally interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner[1] or otherwise concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

Illustration

A, as Collector, upon consideration of information furnished to him, directs the prosecution of B for a breach of the Excise Laws A is disqualified from trying this case as a Magistrate

Practising pleader not to sit as Magistrate in certain Courts

557. No pleader who practises in the Court of any Magistrate in a presidency-town or district, shall sit as a Magistrate in such Court or in any Court within the jurisdiction of such Court

Power to decide language of Courts

558. The Local Government may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered by such Government, other than the High Courts established by Royal Charter [2]

Provision for powers of Judges and Magistrates being exercised by their successors in office

[3][**559.** (*1*) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

(*2*) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(*3*) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall

[1] Or a member of a District Board in the Punjab—*see* s 58 of the Punjab District Boards Act, 1883 (XX of 1883), P. and N.-W. F. Code
Or a member of a Municipal Committee in the Punjab—*see* s 228 of the Punjab Municipal Act, 1911 (3 of 1911), P and N.-W. F Code, in Burma—*see* the Burma Municipal Act, 1898 (Bur. Act, III of 1898), Bur. Code

[2] For notification declaring the language of such Courts in the Rangoon Town District and in Burma elsewhere, *see* Bur R M.

[3] Section 559 was substituted by s 155 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge.]

Officers concerned in sales not to purchase or bid for property.

560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

Special provisions with respect to offence of rape by a husband.

561. (*1*) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall—

(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(*b*) commit the man for trial for the offence.

(*2*) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a police-officer, with respect to such an offence as is referred to in sub-section (*1*), no police-officer of a rank below that of police-inspector shall be employed either to make, or to take part in, the investigation.

Saving of inherent power of High Court.

[1][**561-A.** Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.]

First Offenders.

Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.

[2][**562.** (*1*) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour

[1] Section 561A was inserted by s. 156 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] Section 562 was substituted by s. 157, *ibid*.

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or Sub-divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

Conviction and release with admonition.

[1][(*1A*) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code[2] punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.] XLV of 18

(*2*) An order under this section may be made by any Appellate Court or by the High Court when exercising its power of revision.

(*3*) When an order has been made under this section in respect of any offender, the High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

Provided that the High Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(*4*) The provisions of sections 122, 126A and 406A shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.]

Provision in case of offender failing to observe conditions of his recognizances.

563. (*1*) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(*2*) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court

[1] Sub-section (*1A*) was inserted by section 4 of the Code of Criminal Procedure (Second Amendment) Act, 1923 (XXXVII of 1923).
[2] General Acts, Vol. I.

may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

In Sec. 1

564. (*1*) The Court, before directing the release of an offender under section 562 shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions. Conditions as to abode of offender.

(*2*) Nothing in this section or in sections 562 and 563 shall affect the provisions of section 31 of the Reformatory Schools Act, 1897 [1] of 1897.

Previously convicted Offenders.

[2][565. (*1*) When any person having been convicted— Order for notifying address of previously convicted offender

(*a*) by a Court in British India of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Indian Penal Code,[3] or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years or upwards, or of 1860.

(*b*) by a Court or Tribunal in the territories of any Prince or State in India acting under the general or special authority of the Governor General in Council, or of any Local Government, of any offence which would, if committed in British India, have been punishable under any of the aforesaid sections or Chapters of the Indian Penal Code[2] with like imprisonment for a like term, of 1860

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence

(*2*) If such conviction is set aside on appeal or otherwise, such order shall become void.

[1] General Acts, Vol IV
[2] Section 565 was substituted by s 158 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)
[3] General Acts, Vol I

(3) The Local Government may make rules[1] to carry out the provisions of this *section relating to the notification of residence* or change of or absence from residence by released convicts.

(4) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(5) Any person against whom an order has been made under this section and who refuses or neglects to comply with any rule so made shall be deemed within the meaning of section 176 of the Indian Penal Code[2] to have omitted to give a notice required for the purpose of preventing the commission of an offence XLV of 1860.

(6) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the *place last notified by him as his place of residence is situated.*]

SCHEDULE I.

ENACTMENTS REPEALED

[Repealed by Act X of 1914.]

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[1] For rules as to the notification of residence by released convicts in—
(1) Bombay, *see* Bom. R. and O.;
(2) Burma, *see* Bur. R. M.
(3) Bengal, *see* Ben. R. and O.;
(4) Central Provinces, *see* C. P. R. and O.;
(5) Madras, *see* Mad. R. and O.;
(6) Punjab, *see* Punj. R. and O.;
(7) Assam, *see* Assam R. and O.,
(8) Coorg, *see* Coorg R. and O.
[2] General Acts, Vol. I.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

EXPLANATORY NOTE.—The entries in the second and seventh columns of this schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code,[1] or even as abstracts of those sections but merely as references to the subject of the section, the number of which is given in the first column.

The third column of this schedule applies also to the police in the towns of *Calcutta* and *Bombay*.

CHAPTER V.—ABETMENT.

1	2	3	4	5	6	7	8
of 1860 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	*Whether* bailable or not.	*Whether* compoundable or not.	Punishment under the Indian Penal Code[1]	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment	May arrest without war rant if arrest for the off ence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not	The same punishment as for the offence abetted	The Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

[1] General Acts, Vol I.

SCHEDULE II—*continued.*

CHAPTER V.—ABETMENT—*continued.*

1	2	3	4	5	6	7	8
[Act XLV of] 1860, Section.	*Offence.*	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether *bailable* or not.	Whether *compoundable* or not.	Punishment under the Indian Penal Code.[1]	By what Court triable
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence intended to be abetted.	The Court by which the offence abetted is triable.
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Ditto . .	Ditto . .	Ditto .	Ditto .	The same punishment as for the offence committed.	Ditto
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
115	Abetment of an offence, punishable with death or transportation for	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 7 years and fine.	Ditto.

	ble, if the offence be not committed in consequence of the abetment.						
	If an act which causes harm be done in consequence of the abetment	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto . .	Ditto . .	According as the offence abetted is bailable or not.	Ditto .	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both	Ditto.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence	Ditto . .	Ditto .	Ditto	Ditto .	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto . .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to *commit an offence* punishable with death or transportation for life, if the offence be committed.	Ditto .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 7 years and fine.	Ditto

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER V.—ABETMENT—*concluded.*

1	2	3	4	5	6	7	8
1860, Section.	Offence	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable *or not*	Whether compound-*able or not.*	Punishment under the Indian Penal Code.[1]	By what Court triable
118—*contd.*	If the offence be not committed.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not *otherwise.*	According as a warrant or summons may issue for the offence abetted.	[2][Bailable]	According as the offence abetted is compoundable or not.	Imprisonment of either description *for 3 years and fine.*	The Court by which the offence abetted *is triable.*
119	A public servant concealing a design to commit an offence which it is his duty to prevent if the *offence be committed.*	Ditto . .	Ditto .	According as the offence abetted is bailable or not	Ditto	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be *punishable with death* or transportation for life.	Ditto .	Ditto . . .	Not bailable.	Ditto .	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed.	Ditto . .	Ditto . .	[2][Bailable]	Ditto .	Imprisonment extending to a quarter	*Ditto.*

(Schedule II.—Tabular Statement of Offences. Chapter V.—Abetment. Chapter VA.—Criminal Conspiracy.)

						part of the longest term, and of any description, provided for the offence, or fine, or both.	
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto .	Ditto . .	[2][According as the offence concealed is bailable or not].	Ditto	Ditto . . .	Ditto.
	If the offence be not committed.	Ditto .	Ditto .	[2][Bailable]	Ditto .	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

[3][CHAPTER VA.—CRIMINAL CONSPIRACY.

120B	Criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards.	May arrest without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence which is the object of the conspiracy	According as the offence which is the object of the conspiracy is bailable or not.	Not compoundable.	The same punishment as that provided for the abetment of the offence which is the object of the conspiracy	Court of Session when the offence which is the object of the conspiracy is triable exclusively by such Court: in the case of all other offences Court of Session, Presidency Magistrate or Magistrate of the first class.
	Any other criminal conspiracy	Shall not arrest without a warrant.	Summons .	Bailable .	Ditto .	Imprisonment of either description for six months and fine or both.	Presidency Magistrate or Magistrate of the first class.]

[illegible]
[illegible] Amendment) Act, 1923 (XVIII of 1923).
[illegible] Law Amendment Act, 1913 (VIII of 1913), General Acts, Vol. VII.

SCHEDULE II—*continued.*

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1	2	3	4	5	6	7	8
1860. Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code [1]	By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war against the Queen.	Shall not arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Death, or transportation for life, and [2][fine].	Court of Session.
121A	Conspiring to commit *certain offences* against the State.	Ditto	Ditto	Ditto	Ditto	Transportation for life or any shorter term, or imprisonment of either description for 10 years [3][and fine].	Ditto.
122	Collecting arms, etc., with the *intention of* waging war against the Queen.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of *either* description for 10 years and [2][fine.]	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.

124	Assaulting Governor General, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.
124A	Sedition . . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the first class specially empowered by the Local Government in that behalf.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto . .	Ditto .	Ditto .	Ditto .	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Court of Session.
126	Committing depredation on the territories of any power in alliance or at peace with the Queen.	Ditto . .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine and forfeiture of certain property.	Ditto.

[1] General Acts, Vol. I.
[2] This word was substituted for the words "forfeiture of property" by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[3] These words were inserted by *ibid*.

SCHEDULE II—*continued.*

CHAPTER VI.—OFFENCES AGAINST THE STATE—*continued.*

1	2	3	4	5	6	7	8
Section. of 1860.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Shall not arrest without warrant.	Warrant .	Not bailable	Not compoundable.	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Court of Session.
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Ditto . .	Ditto . .	Ditto .	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Ditto . .	Ditto . .	Bailable .	Ditto .	Simple imprisonment for 3 years and fine.	Court of Session, *Presidency* Magistrate or Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

Chapter VII.—Offences relating to the Army and Navy.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto . .	Ditto . .	Ditto .	Ditto	Death or transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office	Ditto . .	Ditto . .	Ditto .	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
134	Abetment of such assault, if the assault is committed	Ditto .	Ditto . .	Ditto .	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session
135	Abetment of the desertion of an officer, soldier or sailor	Ditto . .	Ditto .	Bailable .	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
136	Harbouring such an officer, soldier or sailor, who has deserted.	Ditto . .	Ditto . .	Ditto .	Ditto	Ditto . .	Ditto.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons .	Ditto .	Ditto .	Fine of 500 rupees .	Ditto.

[1] General Acts, Vol. I.

(*Schedule II.—Tabular Statement of Offences. Chapter VII.—Offences relating to the Army and Navy. Chapter VIII.—Offences against the Public Tranquillity.*)

SCHEDULE II—*continued.*

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*continued.*

1	2	3	4	5	6	7	8
1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier,	Ditto . .	Summons .	Ditto .	Ditto .	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

1	2	3	4	5	6	7	8
143	Being member of an unlawful assembly.	May arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.

(*Schedule II.—Tabular Statement of Offences. Chapter VIII.—Offences against the Public Tranquillity.*)

144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	*Ditto*	*Ditto*	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
147	Rioting	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
148	Rioting, armed with a deadly weapon	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as *the* offence is bailable or not	Ditto	The same as for the *offence*	The Court by which the offence is triable
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant	According to the offence committed by the person hired, engaged or employed	*Ditto*	*Ditto*	The same as for a member of such assembly, and for any offence com*mitted by* any member of such assembly.	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1	2	3	4	5	6	7	8
1860, Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.[1]	By what Court triable.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	May arrest without warrant.	Summons	Bailable	Not compoundable	Imprisonment of either description for 6 months, or fine, or both	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, etc.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter I.—Offences against the Public Tranquillity.*)

153A	Promoting enmity between classes	Shall not arrest without warrant	Warrant	Not bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first class.
154	Owner or occupier of land not giving information of riot, etc	Ditto	Summons	Bailable	Ditto	Fine of 1,000 rupees	Presidency Magistrate or Magistrate of the first or second class.]
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
159	Or to go armed	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
160	Committing affray .	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for one month, or fine of 100 rupees, or both.	Any Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

1	2	3	4	5	6	7	8
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter IX.—Offences by or relating to Public Servants.)

163	Taking a gratification for the exercise of personal influence with a public servant	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 1 year, or fine, or both.	*Presidency* Magistrate or Magistrate of the first class
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	*Court of Session, Presidency* Magistrate or Magistrate of the first class.

[1] General Acts, Vol. I.

(Schedule II.—Tabular Statement of Offences. Chapter IX.—Offences by or relating to Public Servants.)

SCHEDULE II—*continued.*

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*continued.*

1	2	3	4	5	6	7	8
60. Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code [1]	By what Court triable.
168	Public servant unlawfully engaging in trade.	Shall not arrest without warrant	Summons .	Bailable .	Not compoundable.	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	*Personating* a public servant.	May arrest without warrant.	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto . .	Summons .	Ditto .	Ditto .	Imprisonment of either description for 3 *months*, or fine of 200 rupees, or both.	Ditto

(Schedule II.—Tabular Statement of Offences. Chapter IXA.—Offences relating to elections. Chapter X.—Contempts of the Lawful Authority of Public Servants.)

[2] [CHAPTER IXA.—OFFENCES RELATING TO ELECTIONS.

171E	Bribery . . .	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for one year, or fine, or both or if treating only, fine only.	Presidency Magistrate or Magistrate of the first class.
171F	Undue influence and personation at an election.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for one year, or fine, or both.	Ditto.
171G	False statement in connection with an election.	Ditto . .	Ditto . .	Ditto .	Ditto .	Fine . . .	Ditto
171H	Illegal payments in connection with elections	Ditto .	Ditto . .	Ditto .	Ditto .	Fine of 500 rupees .	Ditto.
171I	Failure to keep election accounts	Ditto . .	Ditto . .	Ditto .	Ditto .	Fine of 500 rupees .	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceedings from a public servant.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, etc., in a Court of Justice.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

[1] General Acts, Vol. I.
[2] These entries were added by s. 3 of the Indian Elections Offences and Inquiries Act, 1920 (XXXIX of 1920)

SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1	2	3	4	5	6	7	8
S00. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, etc., in a Court of Justice.	Ditto .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both,	Ditto

(Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the Lawful Authority of Public Servants.)

175	Intentionally omitting *to produce* a document to a public servant by a person legally bound to produce or deliver such document.	Shall not arrest without warrant	Summons	Bailable	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If the notice or information required *respects* the commission of an offence, etc.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1	2	3	4	5	6	7	8
Section	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
177 —*contd.*	If the information required respects the commission of an offence, etc.	Shall not arrest without warrant.	Summons	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
178	Refusing oath when duly required to take oath by a public servant.	Ditto . .	Ditto	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the Lawful Authority of Public Servants.*)

180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto .	*Warrant* .	Ditto	Ditto .	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
182	Giving false information to a public servant *in order to cause* him to use his lawful power to the injury or annoyance of any person.	Ditto .	Summons .	Ditto .	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
183	*Resistance to the taking* of property by the lawful authority of a public servant	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 month, or fine of 500 rupees, or both	Ditto.

[1] General Acts, Vol. I

SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1	2	3	4	5	6	7	8
Section	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
186	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the Lawful Authority of Public Servants.)

	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Ditto .	Ditto .	Ditto .	Ditto .	Simple imprisonment for 1 month, or fine of 200 rupees, or both,	Ditto.
	If such disobedience causes danger to human life, health or safety, etc	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both	Ditto
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

1	2	3	4	5	6	7	8
1860, Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Giving or fabricating false evidence in any other case.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	Ditto	Not bailable.	Ditto	*Transportation* for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
	If innocent person be thereby convicted and executed.	Ditto	Ditto	Ditto	Ditto	Death, or as above	Ditto

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation for life or with imprisonment for 7 years or upwards.	*Ditto* .	Ditto . .	[2][Not bailable].	Ditto	The same as for the offence.	Ditto.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto .	Ditto .	According as the offence of giving such evidence is bailable or not.	Ditto	The same as for giving or fabricating false evidence.	Court of Session, Presidency Magistrate or Magistrate of the *first class*
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto . .	Ditto . .	Bailable .	Ditto	The same as for giving false evidence.	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
199	False statement made in any declaration which is by law receivable as evidence.	Ditto .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto

[1] General Acts, Vol. I.
[2] The words "Not bailable" were substituted for the word "Bailable" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (I of 1903), General Acts, Vol. V.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable.
200	Using as true any such declaration known to be false.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	The same as for giving false evidence.	Court of Session, Presidency Magistrate or Magistrate of the first class.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life or imprisonment for 10 years.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with less than 10 years' imprisonment.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
203	Giving false information respecting an offence committed.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence	Ditto	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first class
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class

[1] General Acts. Vol I.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.*	Punishment under the Indian Penal Code.†	By what Court triable.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree	Shall not arrest without warrant	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first class.
209	False claim in a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
	If offence charged be punishable with imprisonment for 7 years or upwards	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If offence charged be capital, or punishable with transportation for life	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session
212	Harbouring an offender, if the offence be capital.	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
[XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
212—*contd.*	If punishable with imprisonment for 1 year and not for 10 years.	May arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
213	Taking gift, etc., to screen an offender from punishment, if the offence be capital.	[May arrest without warrant.]	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

(*Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.*)

214	Offering gift or restoration of property in consideration of *screening offender*, if the offence be capital.	[2][Shall not arrest without warrant.]	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	[2][May arrest without warrant.]	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] General Acts, Vol. I.

[2] These words were substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
216—contd	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant	Bailable	Not compoundable	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for 1 year, and not for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
216A	Harbouring robbers or dacoits.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	Ditto	Ditto	Imprisonment of either description for 2 years, or fine or both.	Presidency Magistrate or Magistrate of the first or second class.

218	*Public servant framing* an incorrect record or writing with intent to save person *from punishment*, or property from forfeiture.	Ditto . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . .	Ditto
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender if the offence be capital.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, with or without fine	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or *Magistrate of the* first class.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
221—*contd.*	If with imprisonment for less than 10 years.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death.	Ditto . .	Ditto . .	Not bailable	Ditto .	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
	If under sentence of transportation or penal servitude for life, or transportation, imprisonment or penal servitude for 10 years or upwards.	Ditto .	Ditto . .	Ditto .	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.

	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 3 years, or fine or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
223	Escape from confinement negligently suffered by a public servant.	Ditto .	Summons .	Ditto .	Ditto .	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension	May arrest without warrant.	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years	Ditto . .	Ditto . .	Not bailable	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class
	If charged with a capital offence.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session.

[1] General Acts, Vol. I,

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1	2	3	4	5	6	7	8
[XLV of 1860] Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
225—*contd.*	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If under sentence of death.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
225A	Omission to apprehend, or sufferance of escape on part of public servant, in cases not otherwise provided for—						
	(a) In cases of intentional omission or sufferance;	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

	(b) in case of negligent omission or sufferance.	Ditto . .	Summons .	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
225B	Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.	May arrest without warrant	Warrant	*Ditto* .	*Ditto* .	*Imprisonment* of either description for 6 months, or fine, or both.	*Ditto.*
226	Unlawful return from transportation.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Transportation for life, and fine, and rigorous imprisonment for 3 years before transportation.	Court of Session.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons .	Ditto .	Ditto .	Punishment of original sentence, or if part of the punishment has been undergone, the residue	The Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto . .	Ditto .	Bailable .	Ditto .	Simple imprisonment for 6 months, *or fine of 1,000* rupees, or both.	The Court in which the offence is com*mitted, subject* to the provisions of Chapter XXXV.
229	Personation of a juror or assessor.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

1	2	3	4	5	6	7	8
[..]00, Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session

(*Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps.*)

235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If Queen's coin . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine	Court of Session.
236	Abetting in British India the counterfeiting out of British India of coin.	Ditto . .	Ditto . .	Ditto .	Ditto .	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto . .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
238	Import or export of counterfeits of the *Queen's coin, knowing* the same to be counterfeit.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life or imprisonment of either description for 10 years, and fine.	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Ditto . .	Ditto . .	Ditto	Ditto .	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1]General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
240	The same with respect to the Queen's coin	May arrest without warrant.	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 10 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps.)

244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto . .	Ditto .	Ditto	Ditto .	Imprisonment of either description for 7 years, and fine	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description	Ditto . .	Ditto . .	Ditto	Ditto .	Imprisonment of either description for 3 years, and fine	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 5 years, and fine.	Ditto.

[1]General Acts, Vol. I.

SCHEDULE II—*continued.*

Chapter XII.—Offences relating to Coin and Government Stamps—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 5 years, and fine.	Ditto.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Presidency Magistrate or Magistrate of the first or second class.

Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps.)

255	Counterfeiting a Government stamp.	Ditto . .	Ditto . .	Bailable .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.
258	Sale of counterfeit Government stamp.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
259	Having possession of a counterfeit Government stamp.	*Ditto* . .	*Ditto* . .	Ditto .	Ditto	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto . .	Ditto . .	Ditto .	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause *loss to Government.*	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Ditto.

[1] General Acts, Vol. I.

(*Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps. Chapter XIII.—Offences relating to Weights and Measures.*)

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
262	Using a Government stamp known to have been before used.	May arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
263A	Fictitious stamps	Ditto	Ditto	Ditto	Ditto	Fine of 200 rupees	Presidency Magistrate or Magistrate of the first class.
	CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.						
264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
265	Fraudulent use of false weight or measure.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XIII.—Offences relating to Weights and Measures. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.*)

266	Being in possession of false weights or measures for fraudulent use.	Ditto .	Ditto	Ditto .	Ditto	Ditto .	Ditto
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons .	Bailable	Not compoundable	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto . .	Ditto . .	Ditto .	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	Ditto . .	Ditto . .	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink knowing the same to be noxious	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS —*continued.*

1	2	3	4	5	6	7	8
1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . .	Ditto.

277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto . .	Ditto .	Ditto	Fine of 500 rupees .	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Ditto . .	Ditto . .	Ditto .	Ditto	Ditto . . .	Presidency Magistrate or Magistrate of the first or second class.
281	Exhibition of a false light, mark or buoy.	Ditto . .	Warrant .	Ditto .	Ditto .	*Imprisonment of either description for 7 years, or fine, or both.*	Court of Session.
282	Conveying for hire any *person*, by *water*, *in a* vessel in such a state, or so loaded, as to endanger his life.	Ditto . .	Summons .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto . .	Ditto . .	Ditto .	Ditto .	Fine of 200 rupees .	Ditto.

SCHEDULE II—*continued.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS —*continued.*

1	2	3	4	5	6	7	8
of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
284	Dealing with any poisonous substance so as to endanger human life, etc.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Ditto . . .	Any Magistrate.
286	So dealing with any explosive substance.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto . .	Ditto .	Ditto .	Ditto . . .	Presidency Magistrate or Magistrate of the first or second class.

Schedule II.—Tabular Statement of Offences. (Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

288	A person omitting to guard against probable danger to human life by the fall of any building over which he has right entitling him to pull it down or repair it.	Ditto	Ditto	Ditto	Ditto	Ditto .	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Ditto . . .	Any Magistrate.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto . .	Ditto .	Ditto .	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
292	Sale, etc., of obscene books, etc.	Ditto . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene books, etc., for sale or exhibition.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto	Ditto.
294	Obscene songs . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	[2][Any Magistrate.]

[1] Genenral Acts, Vol I.
[2] Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—continued.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFE… …VENIENCE, DECENCY AND MORALS

(iii) in the Second Schedule, after the entry relating to section 295 of the Indian Penal Code, the following entry shall be inserted, namely:— XLV of 1860.

"295A	Maliciously insulting the religion or the religious beliefs of any class.	Shall not arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Presidency Magistrate;"

and

(iv) in the same Schedule, for the entries in the third, fourth, fifth, sixth and eighth columns relating to section 296 of the Indian Penal Code, the following entries shall be substituted, respectively, namely:— XLV of 1860.

"May arrest without warrant.	Summons.	Bailable.	Not compoundable.	Presidency Magistrate or Magistrate of the first or second class."

						7	8
						…unishment under …he Indian Penal Code.[1]	By what Court triable.
						…risonment of …her description … 6 months, or … or both.	Any Magistrate.
						…of 1,000 rupees.	Ditto.
	…or sacred object with intent to insult the religion of any class of persons.	…warrant.	…	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for one year, or fine, or both.	Ditto.

(Added, slip vide Act … 2).

297	Trespassing in place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto . .	Ditto .	Compoundable.	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Of Offences affecting Life.

302	Murder . . .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Death, or transportation for life, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	*Ditto* . .	*Ditto* . .	*Ditto* .	*Ditto* .	Death . . .	Ditto.

[1] General Acts, Vol. I.

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.)

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Offences affecting Life—continued.

1	2	3	4	5	6	7	8
of 1860, Section	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons *shall ordinarily* issue in the first instance	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
305	Abetment of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Death, or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*)

306	Abetting the commission of suicide.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine	Ditto
307	Attempt to murder	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.
	If such act cause hurt to any person.	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for life, or as above.	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Ditto .	Ditto .	Ditto .	Ditto .	Death, or as above	Ditto.
308	Attempt to commit culpable homicide.	Ditto .	Ditto .	Bailable .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide.	Ditto .	Ditto .	Ditto .	Ditto .	Simple imprisonment for one year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class.
311	Being a thug	Ditto .	Ditto .	Not bailable.	Ditto .	Transportation for life, and fine.	Court of Session.

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.

[1] General Acts, Vol I.

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants and of the Concealment of Births—continued.

1	2	3	4	5	6	7	8
LV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall *ordinarily* issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
312—*contd.*	If the woman be quick with child.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
313	Causing miscarriage without woman's *consent.*	Ditto	Ditto	*Not bailable.*	*Ditto*	*Transportation* for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
	If act done without woman's consent.	Ditto	*Ditto*	Ditto	*Ditto*	*Transportation for* life, or as above.	*Ditto.*
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either *description* for 10 years, or fine, or both.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*)

316	Causing death of a quick unborn child by an act amounting to culpable homicide	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine.	Ditto.
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	[2][Court of Session, Presidency Magistrate or Magistrate of the first class.]
318	Concealment of birth by secret disposal of dead body.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first [3]*** class.

Of Hurt.

323	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable.	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto . .	Ditto .	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.

[1] General Acts, Vol. I.
[2] This entry was substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[3] The words "or second" were omitted by *ibid*

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—continued.

1	2	3	4	5	6	7	8
of 1860. Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	May arrest without warrant.	Summons	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	[2][Court of Session, Presidency Magistrate or Magistrate of the first class.
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	[3][Court of Session.]

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*)

329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 10 years, and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty	Ditto .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 10 years, and fine.	Court of Session.
334	*Voluntarily* causing hurt on grave and *sudden provocation*, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable.	Imprisonment of either description for 1 month, or fine of *500 rupees, or* both.	Any Magistrate.

[1] General Acts, Vol. I.

[2] *Substituted by s. 159 of the Code of Criminal Procedure* (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
335	Causing grievous hurt on grave and sudden *provocation*, not intending to hurt any *other than the person* who gave the provocation.	May arrest without warrant.	Summons	Bailable	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 *rupees*, or both.	Court of Session, Presidency Magis trate or Magistrate of the first or second class.
336	Doing any act which endangers human *life* or the personal safety of others.	Ditto	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, etc	Ditto	Ditto	*Ditto*	*Compound*able when permission is given by the Court *before* which a prosecution is pending.	Imprisonment of either description *for 6 months*, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.

of 1860.

(*Schedule II.— Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*

338	Causing grievous hurt by an act which endangers human life, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	*Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.*	Ditto
				Of Wrongful Restraint and Wrongful Confinement.			
341	Wrongfully restraining any person.	May arrest without warrant.	Summons .	Bailable .	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
342	Wrongfully confining any person.	Ditto . .	Ditto . .	Ditto .	Ditto .	*Imprisonment* of either description *for 1 year, or fine* of 1,000 rupees, or both.	Presidency Magistrate or Magistrate *of the first or second* class.
343	Wrongfully confining for three or *more* days.	Ditto . .	Ditto . .	*Ditto*	[2] [Compoundable when permission is given *by the* Court before which the prosecution is *pending*.]	Imprisonment of either description *for 2 years*, or fine, *or both*.	Ditto.
344	Wrongfully confining for 10 or more days.	Ditto . .	Ditto . .	Ditto .	[2] [Not compoundable.]	Imprisonment *of* either description *for 3 years, and fine.*	Court of Session, Presidency Magistrate *or Magistrate* of the first or second class.

[1] General Acts, Vol. I.

[2] Substituted by s. 150 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Wrongful Restraint and Wrongful Confinement—continued.

1	2	3	4	5	6	7	8
1860. *Section.*	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto . .	Ditto .	[2][Compoundable when permission is given by the Court before which the prosecution is pending.]	Ditto . . .	Ditto

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*)

347	*Wrongful confinement* for the purpose of extorting property or constraining to an illegal act, etc.	Ditto . .	Ditto . .	Ditto	[2][Not compoundable.]	Imprisonment of either description for 3 years, and fine.	Ditto
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable.	*Imprisonment* of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant .	Ditto .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto."
355	Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons .	Ditto .	Compoundable	*Ditto* . . .	Ditto.

[1] General Acts, Vol I.
[2] Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*continued.*

Chapter XVI.—Offences affecting the Human Body—*continued.*

Of Criminal Force and Assault—continued.

1	2	3	4	5	6	7	8
V of 1860, Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
356	Assault or criminal force in attempt to *commit* theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	[Compoundable when permission is given by the Court before which the prosecution is pending].	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Compoundable.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*)

Of Kidnapping, Abduction, Slavery and Forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant.	[2][Bailable.]	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
364	Kidnapping or abducting *in order* to murder.	Ditto	Ditto	[2][Not bailable]	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of *either* description for 10 years, and fine.	Court of Session.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

[1] General Acts, Vol. I.
[2] Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Kidnapping, Abduction, Slavery and Forced Labour—continued.

1	2	3	4	5	6	7	8
1860 Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
368	Concealing or keeping in confinement a kidnapped person.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable	Punishment for kidnapping or abduction.	[2][Court of Session, Presidency Magistrate or Magistrate of the first class.]
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Ditto.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Ditto	Court of Session.
371	Habitual dealing in slaves.	May arrest without warrant.	Ditto	Not bailable.	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*)

372	Selling or letting to hire a minor for purposes of prostitution, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
374	Unlawful compulsory labour.	[2][Shall not arrest without warrant.]	Ditto	Bailable	Compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	Of Rape.						
376	Rape— If the sexual intercourse was by a man with his own wife	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session
	In any other case	May arrest without warrant.	Warrant	Not bailable.	Ditto	Ditto	Ditto.
	Of Unnatural Offences.						
377	Unnatural offences	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] General Acts, Vol. I.

[2] *Substituted by s. 169 of the Code of Criminal Procedure (Amendment) Act, 1923* (XVIII of 1923)

SCHEDULE II—*continued.*

Chapter XVII.—Offences against Property.

Of Theft.

1	2	3	4	5	6	7	8
Section. of 1860.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Whether compoundable or not.	Punishment under the *Indian Penal Code.*[1]	By what Court triable.
379	Theft . . .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent or vessel	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine	Ditto.
381	Theft by clerk or servant of property in possession of master or employer.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . .	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
			Of Extortion.				
384	Extortion	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto	Ditto	Not bailable.	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

Chapter XVII.—Offences against Property.

Of Theft.

1	2	3	4	5	6	7	8
[1] 1860. Section.	*Offence.*	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.[2]	By what Court triable.
379	Theft . . .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	*Theft in a building*, tent or vessel.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.
381	Theft by clerk or servant *of property* in possession of master or employer.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . .	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Of Extortion.						
384	Extortion	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto	Ditto	Not bailable.	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
	If the offence threatened be an unnatural offence.	Ditto	*Ditto*	*Ditto*	*Ditto*	Transportation for life.	Ditto.
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment *for 10 years, in order* to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
	If the offence be an unnatural offence.	Ditto	Ditto	Ditto	Ditto	Transportation for life.	*Ditto.*

of 1860.

Of Robbery and Dacoity.

392	Robbery . . .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable	Rigorous imprisonment for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If committed on the highway between sunset and sunrise.	Ditto .	Ditto .	Ditto .	Ditto .	Rigorous imprisonment for 14 years, and fine.	Ditto.
393	Attempt to commit robbery.	Ditto .	Ditto .	Ditto .	Ditto .	Rigorous imprisonment for 7 years, and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
395	Dacoity . . .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Court of Session.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Robbery and Dacoity—continued.

1	2	3	4	5	6	7	8
of 1860 Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
396	Murder in dacoity	May arrest without warrant.	Warrant	Not bailable	Not compoundable	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
399	Making preparation to commit dacoity.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years and fine.	Ditto.

	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant	Warrant	Bailable	[2] [Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 2 years, or fine, or both	Any Magistrate.

[1] General Acts, Vol. I.
[2] Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*continued.*

Chapter XVII.—Offences against Property—*continued.*

Of Criminal Misappropriation of Property—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
404	Dishonest misappropriation of property knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
„	If by clerk or person employed by deceased.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.

Of Criminal Breach of Trust.

1	2	3	4	5	6	7	8
406	Criminal breach of trust.	May arrest without warrant.	Warrant .	Not bailable.	Not Compoundable	Imprisonment of either description for 3 years or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

[1] 1860. Section.

(*Schedule II.—Tabular Statement of Offences. Chapter XVII.—Offences against Property.*)

407	Criminal breach of trust by a carrier, wharfinger, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Sessions Presidency Magistrate or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Ditto .	Ditto	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the *first or second class.*
412	Dishonestly receiving stolen property knowing that it was obtained by dacoity.	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for life, or rigorous imprisonment for 10 years, and fine	Court of Session.
413	Habitually dealing in stolen property.	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine	Ditto.
414	Assisting in concealment or disposal of stolen property knowing it to be stolen.	Ditto .	Ditto .	Ditto	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

[1] General Acts, Vol. I.

[2] The figures "405" were omitted by s. 159 of the Code of Criminal Procedure (Amendment) Act 1923 (XVIII of 1923)

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Cheating.

1	2	3	4	5	6	7	8
1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
417	Cheating . .	Shall not arrest without warrant.	Warrant .	Bailable .	[Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract to protect.	Ditto .	Ditto .	Ditto .	[Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation.	May arrest without warrant.	Ditto .	Ditto .	[Compoundable when permission is given by the Court before which the prosecution is pending.]	Ditto .	Ditto.

420	Cheating and thereby dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	Ditto	Ditto	Ditto	[2][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Of Fraudulent Deeds and Disposition of Property.						
421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property, of himself or *any other person*, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

[1] General Acts, Vol I.
[2] *Substituted by s.* 159 *of the* Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief.

1	2	3	4	5	6	7	8
1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons *shall ordinarily* issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
426	Mischief . . .	Shall not arrest without warrant	Summons .	Bailable .	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chapter XVII.—Offences against Property.)

428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Not Compoundable	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value or any other animal of the value of 50 rupees or upwards.	*Ditto*	*Ditto*	*Ditto*	*Ditto*	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto	Ditto	Ditto	[2][Compoundable when permission is given by the Court before which the prosecution is pending.]	Ditto	Ditto.
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	Ditto	Ditto	[2][Not compoundable.]	Ditto	Ditto.

[1] General Acts, Vol. I.

[2] Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*continued.*

Chapter XVII.—Offences against Property—*continued.*

Of Mischief—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	May arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
434	Mischief by destroying or moving, etc., a land mark fixed by public authority.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

(*Schedule II.—Tabular Statement of Offences. Chapter XVII.—Offences against Property.*)

435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
436	Mischief by fire or explosive substance with intent to destroy a house, etc.	Ditto	Ditto	Not bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
437	*Mischief with intent to* destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine.	Ditto
439	Running vessel ashore with intent to commit theft, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
440	Mischief committed after preparation made for causing death, or hurt, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Trespass.

1	2	3	4	5	6	7	8
1860. Section.	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a *summons* shall ordinarily issue *in the* first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code [1]	By what Court triable.
447	*Criminal trespass*	*May arrest without warrant.*	*Summons*	*Bailable*	*Compoundable.*	*Imprisonment of either description for 3 months, or fine of 500 rupees, or both.*	*Any Magistrate.*
448	House-trespass	Ditto	Warrant	Ditto	Ditto	*Imprisonment of either description for one year, or fine of 1,000 rupees, or both.*	Ditto
449	House-trespass *in order* to the commission of an offence *punishable* with death.	Ditto	Ditto	Not bailable.	Not compoundable	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass *in order* to the commission of an offence *punishable* with transportation for life.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.

Schedule II.—Tabular Statement of Offences. Chapter XVII.—Offences against Property.)

451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto .	Ditto	Bailable .	[2][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 2 years, and fine	Any Magistrate.
	If the offence is theft	Ditto .	Ditto .	Not bailable.	[2][Not compoundable.]	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
452	House-trespass, having made preparation for causing hurt, assault, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto
453	Lurking house-trespass or house-breaking.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years, and fine.	Presidency Magistrate or Magistrate of the first or second class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If the offence is theft	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine	Ditto.

[1] General Act, VI.
[2] Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1	2	3	4	5	6	7	8
of 1860. Section.	Offence.	Whether the police may arrest without *warrant or not.*	Whether a warrant or a summons shall ordinarily *issue in the* first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
455	Lurking house trespass or house breaking after preparation made for causing hurt, assault, etc.	May arrest without warrant.	Warrant .	Not bailable	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
456	Lurking house trespass or house-breaking by night.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto .	Ditto .	Ditto	Ditto .	Imprisonment of either description for 5 years, and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVII.—Offences against Property.)

	If the offence is theft	Ditto	Ditto	Ditto	Ditto	*Imprisonment* of either description for 14 years, and fine	Ditto.
458	Lurking house-trespass or house breaking by night after preparation made for causing hurt, etc.	Ditto	Ditto	Ditto	*Ditto*	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking	Ditto	Ditto	Ditto	Ditto	Transportation for life or Imprisonment of *either description* for 10 years, and fine.	Court of Session.
460	*Death or grievous hurt* caused by one of several persons jointly concerned in house-breaking by night, etc	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
461	Dishonestly breaking open *or unfastening* any closed receptacle containing or supposed to contain property.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description *for* 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class.
462	Being entrusted with any closed receptacle *containing or* supposed to contain any property, and fraudulently opening the same.	Ditto	Ditto	*Ditto*	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

[1] General Acts, Vol. I

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
465	Forgery . . .	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
466	Forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant.	Ditto .	Ditto .	Not bailable.	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session.
467	Forgery of a valuable security, will or authority to make or transfer any valuable security, *or to receive any money, etc.*	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	When the valuable security is a promissory *note of the Government of India.*	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.*)

468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto	Ditto	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto .	Ditto .	Bailable .	Ditto .	Imprisonment of either description for 3 years, and fine.	Ditto
471	*Using as genuine* a forged document which is known to be forged	Ditto .	Ditto .	Ditto .	Ditto .	Punishment for *forgery* of such document.	Same Court as that by which the forgery is triable.
	When the forged document is a promissory note of the Government of India.	*May* arrest without warrant.	Ditto .	Ditto .	Ditto .	Ditto .	Court of Session.
472	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under *section 467 of* the Indian Penal Code, or possessing *with like intent* any such seal, plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant	Ditto .	Ditto .	Ditto .	Transportation for life or imprisonment of either description for 7 years, and fine.	Ditto.

[1] General Acts, Vol. I,

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*continued.*

1	2	3	4	5	6	7	8
1860 Section.	*Offence.*	Whether the police may arrest without warrant or not.	Whether a warrant or a summons *shall ordinarily* issue in the first instance.	Whether bailable or not.	Whether compound*able or not.*	Punishment under the Indian Penal Code.[1]	By what Court triable.
473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable *otherwise* than under section 467 of the Indian Penal Code,[1] or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
474	Having possession of a *document*, knowing it to be forged, with intent to use it as genuine; if the document is one of the *description mentioned* in section 466 of the Indian Penal Code.[1]	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

	If the document is one of the description mentioned in section 467 of the Indian Penal Code [1]	Ditto	Ditto .	Ditto .	Ditto .	Transportation for life or imprisonment of either description for 7 years, and fine.	Ditto
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code,[1] or possessing counterfeit marked material	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto
476	Counterfeiting a device or mark used for *authenticating* documents other than those described *in* section 467 of the Indian Penal Code,[1] or possessing counterfeit marked material.	Ditto .	Ditto	Not bailable	Ditto .	Imprisonment of *either* description for 7 years, and fine.	Ditto
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for *life* or imprisonment of either description *for* 7 years, and fine.	Ditto
477A	Falsification of accounts.	Ditto .	Ditto .	[2][Bailable]	Ditto	[2][Imprisonment of either description for seven years, or fine, or both]	[2][Court of Session, Presidency Magistrate or Magistrate of the first class]

[1] General Acts, Vol. I.
[2] Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*continued.*

Of Trade and Property Marks.

1	2	3	4	5	6	7	8
[of 1860.] Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
482	Using a false trade or property mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant .	Bailable .	[2][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
483	Counterfeiting a trade or property mark used by another, with intent to cause damage or injury.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.)

484	Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Ditto .	Summons] .	Ditto	[2][Not compoundable.]	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade-mark.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto .	Ditto .	Ditto .	[2][Compoundable with permission of the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine or both	Presidency Magistrate or Magistrate of the first or second class.
487	Fraudulently making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, etc.	Ditto .	Ditto .	Ditto .	[2][Not compoundable.]	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

[1] General Acts, Vol. I.
[2] Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*concluded.*

1	2	3	4	5	6	7	8
1·60. Section.	*Offence.*	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
488	Making use of any such false mark.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
489	*Removing, destroying* or defacing any property-mark with intent to cause injury.	Ditto .	Ditto	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

[2]*Of Currency-Notes and Bank-Notes.*

489A	Counterfeiting currency-notes or bank-notes.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Transportation for *life or imprisonment* of either *description for* 10 years, and fine.	Court of Session.
489B	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for life or imprisonment of either description for 10 years, and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks. Chapter XIX.—Criminal Breach of Contracts of Service.)

489C	Possession of forged or counterfeit currency-notes or bank-notes.	Ditto .	Ditto .	Bailable .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
489D	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Ditto .	Ditto .	Not bailable.	Ditto .	Transportation for life or imprisonment of either description for 10 years, and fine.	Ditto.

CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490	*Being bound* by contract to render personal service during a voyage or journey or to convey or guard any property or person and voluntarily omitting *to do so*	Shall *not* arrest without warrant.	Summons .	Bailable .	Compoundable.	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Presidency *Magistrate* or Magistrate of the first *or second class.*
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	*Ditto.*

[1] General Acts, Vol. I.
[2] This portion was added to the Schedule by s 3 of the Currency Notes Forgery Act, 1899 (XII of 1899), Genl. Acts, Vol. V.

(*Schedule II.—Tabular Statement of Offences. Chapter XIX.—Criminal Breach of Contracts of Service. Chapter XX.—Offences relating to Marriage.*)

SCHEDULE II—*continued.*

CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE—*concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
492	Being bound by contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable.	Imprisonment of either description *for 1 month*, or fine of double the expense incurred, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

1	2	3	4	5	6	7	8
493	A man by *deceit* causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	*Shall not* arrest without warrant.	Warrant .	Not bailable	Not compoundable.	Imprisonment of either description for 10 years, and fine	Court of Session.

494	Marrying again during the life time of a husband or wife.	Ditto	Ditto	Bailable	[2] [Compoundable with permission of the Court before which the prosecution is pending.]	Imprisonment of either description for 7 years, and fine.	[2] [Court of Session, Presidency Magistrate or Magistrate of the first class.]
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto	Ditto	[2] [Bailable]	[2] [Not compoundable.]	Imprisonment of either description for 10 years and fine	[2] [Court of Session.]
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
497	Adultery	Ditto	Ditto	Bailable	Compoundable.	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

[1] General Acts, Vol. I

[2] Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act 1923 (XVIII of 1923).

SCHEDULE II—*continued.*

Chapter XXI.—Defamation.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
500	Defamation .	Shall not arrest without warrant.	Warrant .	Bailable .	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
501	Printing or engraving matter knowing it to be defamatory.	Ditto	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto

Chapter XXII.—Criminal Intimidation, Insult and Annoyance.

1	2	3	4	5	6	7	8
504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant .	Bailable .	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.

(*Schedule II.—Tabular Statement of Offences. Chapter XXII.—Criminal Intimidation, Insult and Annoyance.*)

505	False statement, rumour, etc., circulated with intent to cause *mutiny* or offence against the public peace	*Ditto*	Ditto .	Not bailable	Not compoundable.	Ditto .	Presidency Magistrate or Magistrate of the first class.
506	Criminal intimidation	Ditto .	Ditto .	Bailable .	Compoundable.	*Ditto* .	[2][Presidency Magistrate or Magistrate of the first or second class.]
	If threat be to cause death or grievous hurt, etc.	Ditto	Ditto .	Ditto .	*Not compoundable.*	*Imprisonment of* either description for 7 years, or fine, or both	*Court of Session*, Presidency Magistrate or Magistrate of the first class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto .	Ditto .	Ditto .	*Ditto* .	*Imprisonment* of either description for 2 years, in addition to the punishment under above section.	Ditto
508	Act caused by inducing a person *to believe* that he will be rendered an object of Divine displeasure.	Ditto .	Ditto .	Ditto .	[3][Compoundable.]	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

[1] General Acts, Vol. I.

[2] *These words were substituted for the word "Ditto" by Part II of the Second Schedule to the Repealing and Amending Act, 1903* (1 of 1903), General Acts, Vol V.

[3] Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

(*Schedule III.—Ordinary Powers of Provincial Magistrates.*)

SCHEDULE III.

(*See section 36.*)

ORDINARY POWERS OF PROVINCIAL MAGISTRATES

I.—Ordinary Powers of a Magistrate of the Third Class.

(1) Power to arrest or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64

(2) Power to arrest, or direct the arrest in his presence of, an offender, section 65

(3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86

(4) Power to issue proclamations in cases judicially before him, section 87.

(5) Power to attach and sell property [1][and to dispose of claims to attached property] in cases judicially before him, section 88.

(6) Power to restore attached property, section 89

(7) Power to require search to be made for letters and telegrams, section 95

(8) Power to issue search-warrant, section 96

(9) Power to endorse a search-warrant and order delivery of thing found, section 99

(10) Power to command unlawful assembly to disperse, section 127.

(11) Power to use civil force to disperse unlawful assembly, section 128

(12) Power to require military force to be used to disperse unlawful assembly, section 130.

[2] * * * * * * * * *

(14) Power to authorise detention [1][not being detention in the custody of the police] of a person during a police-investigation, section 167.

[3][(14a) Power to postpone issue of process and inquire into case himself, section 202.]

(15) Power to detain an offender found in court, section 351.

(16) Power to take cognizance of offence, although committed by European British subject, and to issue process returnable before a Magistrate having jurisdiction, section 445

(17) Power to apply to District Magistrate to issue commission for examination of witness, section 506 (2)

(18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514 [4][and to require fresh security, section 514A]

[3][(18a) Power to make order as to custody and disposal of property pending inquiry or trial, section 516A.]

(19) Power to make order as to disposal of property, section 517.

(20) Power to sell [5] property of a suspected character, section 525

[6][(21) Power to require affidavit in support of application, section 539A.]

[6][(22) Power to make local inspection, section 539B.]

II.—Ordinary Powers of a Magistrate of the Second Class.

(1) The ordinary powers of a Magistrate of a third class.

(2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155

[7][(3) *Power to postpone issue of process and to inquire into a case or direct investigation, section 202.*]

[2] * * * * * * * * *

[1] These words were inserted by s. 160 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] These items were omitted by *ibid*

[3] These items were inserted by *ibid*

[4] These words, figures and letter were added by *ibid.*

[5] The word "perishable" was omitted by *ibid*

[6] These items were added by *ibid.*

[7] This item was substituted by *ibid.*

SCHEDULE III—*continued.*

III.—Ordinary Powers of a Magistrate of the First Class.

(1) The ordinary powers of a Magistrate of the second class.

(2) Power to issue search-warrant otherwise than in course of an inquiry, section 93.

(3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.

(4) Power to require security to keep the peace, section 107.

(5) Power to require security for good behaviour, section 109

(6) Power to discharge sureties, section [1][126A].

[2][(6a) Power to make orders as to local nuisances, section 133]

(7) Power to make orders, etc., in possession cases, sections 145, 146 and 147.

[2][(7a) Power to record statements and confessions during a police investigation, section 164]

[2][(7aa) Power to authorise detention of a person in the custody of the police during a police investigation, section 167.]

[2][(7b) Power to hold inquests, section 174.]

(8) Power to commit for trial, section 206

(9) Power to stop proceedings when no complaint, section 249.

[2][(9a) Power to tender pardon to accomplice during inquiry into case by himself, section 337.]

(10) Power to make orders of maintenance, sections 488 and 489

(11) Power to take evidence on commission, section 503

(12) Power to recover penalty on forfeited bond, section 514.

[2][(12a) Power to require fresh security, section 514A]

[2][(12b) Power to re call case made over by him to another Magistrate, section 528 (4)]

(13) Power to make order as to first offenders, section 562

[2][(14) Power to order released convicts to notify residence, section 565]

IV.—Ordinary Powers of a Sub-divisional Magistrate [4][*appointed under section 13*].

(1) The ordinary powers of a Magistrate of the first class

(2) Power to direct warrants to landholders, section 78

(3) Power to require security for good behaviour, section 110

* * * * * * * *

(5) Power to make orders prohibiting repetitions of nuisances, section 143

(6) Power to make orders under section 144.

(7) Power to depute Subordinate Magistrate to make local inquiry, section 148

(8) Power to order police investigation into cognizable case, section 156

(9) Power to receive report of police-officer and pass order, section 173

* * * * * * * *

[1] These figures and letter were substituted for the figures "126" by s. 160 of the Code of Criminal Proce- [illegible]

[illegible] by ibid

[illegible] ibid.

SCHEDULE III—*continued.*

(11) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.

(12) Power to entertain complaints, section 190

(13) Power to receive police-reports, section 190.

(14) Power to entertain cases without complaint, section 190.

(15) Power to transfer cases to a Subordinate Magistrate, section 192.

(16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349

(17) Power to forward record of inferior Court to District Magistrate, section 435 (2).

(18) Power to sell property alleged or suspected to have been stolen, etc., section 524

(19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528

[1] * * * * * * * *

V.—*Ordinary Powers of a District Magistrate.*[2]

(1) The ordinary powers of a Sub-divisional Magistrate.

[3][(1a) Power to try juvenile offenders, section 29A]

(2) Power to require delivery of letters, telegrams, etc., section 95.

(3) Power to issue search-warrants for documents in custody of postal or telegraph authority, section 96

(4) Power to require security for good behaviour in case of sedition, section 108

(5) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124

(6) Power to cancel bond for keeping the peace, section 125.

[3][(6a) Power to order preliminary investigation by police-officer not below the rank of Inspector in certain cases, section 196B.]

(7) Power to try summarily, section 260.

[3][(7a) Power to tender pardon to accomplice at any stage of a case, section 337.]

(8) Power to quash convictions in certain cases, section 350

(9) Power to hear appeals from orders requiring security for [4][keeping the peace or] good behaviour, section 406.

[3][(9a) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406A.]

(10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.

(11) Power to call for records, section 435.

[5][(12)] Power to order inquiry into complaint dismissed or case of accused discharged, section [6][436]

[5][(13)] Power to order commitment, section [7][437].

(14) Power to report case to High Court, section 438.

(15) Power to try European British subjects, section 443.

(16) Power to sentence European British subject to more than three months' imprisonment or one thousand rupees fine, or both, section 446

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[1] The item (20) was omitted by s 160 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] Under the Punjab Frontier Crimes Regulation, 1901 (III of 1901), additional District Magistrates appointed under s 4 of the Regulation have the powers specified in Part V of the Third Schedule—*see* s 4. (2) of the Regulation, P. and N. W. F. Code.

[3] These items were inserted by s. 160 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[4] These words were inserted by *ibid*

[5] Original items (12) and (13) were re-numbered (13) and (12) respectively by *ibid*.

[6] These figures were substituted for the figures "437" by *ibid*

[7] These figures were substituted for the figures "436" by *ibid*.

SCHEDULE III—*concluded.*

(17) Power to appoint person to be public prosecutor in particular case, section 492 (1).

(18) Power to issue commission for examination of witness, sections 503, 506.

(19) Power to hear appeals from or revise orders passed under sections 514, 515.

(20) Power to compel restoration of abducted female, section 552

SCHEDULE IV.

(See sections 37 and 38.)

Additional powers with which Provincial Magistrates may be invested.

Powers with which a Magistrate of the first class may be invested

By the Local Government

(1) Power to require security for good behaviour in case of sedition, section 108:

(2) Power to require security for good behaviour, section 110.

[1]* * * * *

(4) Power to make orders prohibiting repetitions of nuisances, section 143:

(5) Power to make orders under section 144:

[1]* * * * *

(7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186:

(8) Power to take cognizance of offences upon complaint, section 190.

(9) Power to take cognizance of offences upon police reports, section 190:

(10) Power to take cognizance of offences without complaint, section 190.

(11) Power to try summarily, section 260:

(12) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407:

(13) Power to sell property alleged or suspected to have been stolen, etc, section 524:

[1]* * * * *

(15) Power to try cases under section 124A of the Indian Penal Code

By the District Magistrate

(1) Power to make orders prohibiting repetitions of nuisances, section 143

(2) Power to make orders under section 144:

[2]* * * * *

(4) Power to take cognizance of offences upon complaint, section 190:

(5) Power to take cognizance of offences upon police reports, section 190:

(6) Power to transfer cases, section 192.

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[1] Items (3), (6) and (14) were omitted by s 161 of the Code of Criminal Procedure (Amendment Act, 1923 (XVIII of 1923)

[2] Item (3) was omitted by ibid

SCHEDULE IV—*continued.*

POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	[1] * * * * * (2) Power to make orders prohibiting repetitions of nuisances, section 143: (3) Power to make orders under section 144: [2][(3a) Power to record statements and confessions during a police investigation, section 164]: [2][(3b) Power to authorise detention of a person in the custody of the police during a police investigation, section 167]: (4) Power to hold inquests, section 174: (5) Power to take cognizance of offences upon complaint, section 190: (6) Power to take cognizance of offences upon police reports, section 190: (7) Power to take cognizance of offences without complaint, section 190: (8) Power to commit for trial, section 206: (9) Power to make order as to first offenders, section 562
	BY THE DISTRICT MAGISTRATE.	(1) Power to make orders prohibiting repetitions of nuisances, section 143: (2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 190: (5) Power to take cognizance of offences upon police reports, section 190.
POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT	(1) Power to make orders prohibiting repetitions of nuisances, section 143: [3] * * * (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 190: (5) Power to take cognizance of offences upon police reports, section 190: [3] * *
	BY THE DISTRICT MAGISTRATE.	(1) Power to make orders prohibiting repetitions of nuisances, section 143: [4] * * * (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 190: (5) Power to take cognizance of offences upon police reports, section 190.
POWERS WITH WHICH A SUB-DIVISIONAL MAGISTRATE MAY BE INVESTED	BY THE LOCAL GOVERNMENT.	Power to call for records, section 435

[1] Item (1) was repealed by the Whipping Act, 1909 (IV of 1909), General Acts Vol VI, Appendix
[2] These items were inserted by s 161 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[3] Items (2) and (6) were omitted by *ibid.*
[4] Item (2) was omitted by *ibid.*

SCHEDULE V.

(*See section 555.*[1])

FORMS.

I.—Summons to an Accused Person

(*See section 68*)

To of

Whereas your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or by pleader, as the case may be*) before the (*Magistrate,*
of , on
the day of . Herein fail not.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

II.—Warrant of Arrest

(*See section 75*)

To (*name and designation of the person or persons who is or are to execute the warrant*).

Whereas of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me Herein fail not

Dated this day of 18 .

(*Seal.*) (*Signature*)

(*See section 76*)

This warrant may be endorsed as follows —

If the said shall give bail himself in the sum of , with one surety in the sum of (*or two sureties each in the sum of*) to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released

Dated this day of 18 .

(*Signature*)

III.—Bond and Bail-bond after arrest under a warrant.

(*See section 86*)

I (*name*), of , being brought before the District Magistrate of (*or as the case may be*) under a warrant issued to compel my appearance to answer to the charge of , do hereby bind myself to attend in the Court of on the day of next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court, and, in case of my making default herein, I bind myself to forfeit, to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of 18 .

(*Signature*)

I do hereby declare myself surety for the abovenamed of that he shall attend before in the Court of on the day of next, to answer to the charge on which he has been arrested and shall continue so to attend until otherwise directed by the Court, and, in case of his making

[1] These figures were substituted for the figures "554" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (I of 1903), Genl Acts, Vol V

default therein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of 18 .

(*Signature*)

IV.—Proclamation requiring the appearance of a person accused.

(*See section 87.*)

Whereas complaint has been made before me that (*name, description and address*) has committed (*or is suspected to have committed*) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found, and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself to avoid the service of the said warrant*);

Proclamation is hereby made that the said of is required to appear at (*place*) before this Court (*or before me*) to answer the said complaint [on the day of][1]

Dated this day of 18 .

(*Seal.*) (*Signature.*)

V.—Proclamation requiring the attendance of a witness.

(*See section 87.*)

Whereas complaint has been made before me that (*name, description and address*) has committed (*or is suspected to have committed*) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or is concealing himself to avoid the service of the said warrant*);

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the Court of on the day of next at o'clock to be examined touching the offence complained of.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

VI.—Order of attachment to compel the attendance of a witness.

(*See section 88.*)

To the Police officer in charge of the Police station at

This is to authorize and require you to attach by seizure the moveable property belonging to the said to the value of rupees which you may find within the District of and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(See section 88)

To *(name and designation of the person or persons who is or are to execute the warrant)*.

WHEREAS complaint has been made before me that *(name, description and address)* has committed *(or is suspected to have committed)* the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said *(name)* cannot be found, and whereas it has been shown to my satisfaction that the said *(name)* has absconded *(or is concealing himself to avoid the service of the said warrant)*, and thereupon a [1][Proclamation has been or is being duly issued] and published requiring the said to appear to answer the said charge within days; and whereas the said is possessed of the following property other than land paying revenue to Government in the village *(or town)* of , in the District of , viz., , and an order has been made for the attachment thereof,

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution

Dated this day of 18 .

(Seal.) *(Signature.)*

ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(See section 88)

To the Deputy Commissioner of the District of

WHEREAS complaint has been made before me that *(name, description and address)* has committed *(or is suspected to have committed)* the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said *(name)* cannot be found, and whereas it has been shown to my satisfaction that the said *(name)* has absconded *(or is concealing himself to avoid the service of the said warrant)* and thereupon a [1][Proclamation has been or is being duly issued] and published requiring the said to appear to answer the said charge within days, [2]* * *, and whereas the said is possessed of certain land paying revenue to Government in the village *(or town)* of in the District of

You are hereby authorized and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order

Dated this day of 18 .

(Seal.) *(Signature.)*

VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS.

(See section 90)

To *(name and designation of the Police officer or other person or persons who is or are to execute the warrant)*

WHEREAS complaint has been made before me that of has *(or is suspected to have)* committed the offence of *(mention the offence concisely)*, and it appears likely that *(name, and description of witness)* can give evidence concerning the said complaint, and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorize and require you to arrest the said *(name)*, and on the day of to bring him before this Court, to be examined touching the offence complained of

Given under my hand and the seal of the Court, this day of 18 .

(Seal.) *(Signature.)*

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[1] These words were substituted for the words "Proclamation was duly issued" by s. 162 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

[2] The words "but he has not appeared" were omitted by *ibid*

VIII.—Warrant to search after information of a particular offence.

(See section 96.)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

Whereas information has been laid (*or* complaint has been made) before me of the commission (*or* suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made *or* about to be made into the said offence *or* suspected offence;

This is to authorize and require you to search for the said (*the thing specified*) in the (*describe the house or place or part thereof to which the search is to be confined*) and, if found to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

IX.—Warrant to search suspected Place of Deposit.

(See section 98.)

To (*name and designation of a Police-officer above the rank of a Constable*).

Whereas information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (*describe the house or other place*) is used as a place for the deposit (*or* sale) of stolen property (*or if for either of the other purposes expressed in the section state the purpose in the words of the section*);

This is to a... [illegible] ...nter the said house (*or other place*) with such [illegible] necessary, reasonable force for that purpose, [illegible] *or other place, or if the search is to be con-* [illegible] to seize and take possession of any property [illegible] *as the case may be*)—[Add (*when the case* [illegible] materials which you may reasonably believe to be kept for the manufacture of forged documents, *or* counterfeit stamps, *or* false seals *or* counterfeit coin (*as the case may be*)], and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

X.—Bond to keep the peace.

(See section 107.)

Whereas I (*name*), inhabitant of (*place*), have been called upon to enter into a bond to keep the peace, for the term of [1][or until the completion of the inquiry in the matter of now pending in the Court of ,] I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term [1][or until the completion of the said inquiry] and in case of my making default therein, I hereby bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

XI.—Bond for Good Behaviour.

(See sections 108, 109 and 110.)

Whereas I (*name*), inhabitant of (*place*), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen, Empress of India, and to all Her

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[1] These words were inserted by s. 162 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

subjects for the term of *(state the period)* [1][or until the completion of the inquiry in the matter of now pending in the Court of ,] I hereby bind myself to be of good behaviour to Her Majesty and to all Her subjects during the said term [1][or until the completion of the said inquiry]; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees .

Dated this day of 18 .

(Signature.)

(Where a bond with sureties is to ... are ourselves sureties for the abovenamed tha ... Her Majesty the Queen, Empress of India, and to ... m [1][or until the completion of the said inquiry]; a ... ein, we bind ourselves, jointly and severally, to forf ... .

Dated this day of 18 .

(Signature.)

XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE

(See section 114.)

To of

WHEREAS it has been made to appear to me by credible information that *(state the substance of the information)*, and that you are likely to commit a breach of the peace *(or* by which act a breach of the peace will probably be occasioned), you are hereby required to attend in person *(or* by a duly authorized agent) at the Office of the Magistrate of on the day of 18 , at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees [*when sureties are required, add*], and also to give security by the bond of one *(or* two, *as the case may be)* surety *(or* sureties) in the sum of rupees (each *if more than one*)] that you will keep the peace for the term of

Given under my hand and the seal of the Court, this day of 18 .

(Seal.) *(Signature.)*

XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

(See section 123.)

To the Superintendent *(or* Keeper) of the Jail at .

WHEREAS *(name and address)* appeared before me in person *(or* by his authorized agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees with one surety *(or* a bond with two sureties each in rupees), that he, the said *(name)*, would keep the peace for the period of months; and whereas an order was then made requiring the said *(name)* to enter into and find such security *(state the security ordered when it differs from that mentioned in the summons)*, and he has failed to comply with the said order,

This is to authorize and require you, the said Superintendent *(or* Keeper), to ... together with this warrant, and him safely to ... *(term of imprisonment)* unless he shall in the ... leased] and to return this warrant with an ... execution.

Given under my hand and the seal of the Court, this day of 18 .

(Seal.) *(Signature.)*

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[1] These words were inserted by s. 162 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

[2] These words were substituted for the words "comply with the said order by himself and his surety (or sureties) entering into the said bond in which case the same shall be received, and the said (name) released" by Part II of the second Schedule to the Repealing and Amending Act, 1903 (I of 1903), Genl. Acts, Vol. V.

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(See section 123.)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS it has been made to appear to me that (*name and description*) has been and is lurking within the district of having no ostensible means of subsistence (*or*, that he is unable to give any satisfactory account of himself);

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded, from which it appears that he is an habitual robber (*or* house-breaker, etc , *as the case may be*);

And whereas an order has been recorded stating the same and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or* two or more sureties, *as the case may be*), himself for rupees , and the said surety (*or* each of the said sureties) for rupees , and the said (*name*) has failed to comply with the said order and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) unless he shall in the meantime [1][be lawfully ordered to be released] and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(See sections 123 and 124.)

To the Superintendent (*or* Keeper) of the Jail at (*or other officer in whose custody the person is*)

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of the Court, dated the day of and has since duly given security under section of the Code of Criminal Procedure,

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorize and require you forthwith to discharge the said (*name*) from your custody unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XVI.—ORDER FOR THE REMOVAL OF NUISANCES

(See section 133.)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you have caused an obstruction (*or* nuisance) to persons using the public roadway (*or other public place*) which, etc.,

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[1] These words were substituted for the words "comply with the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be received, and the said (*name*) released" by the Repealing and Amending Act, 1903 (I of 1903)—see s. 3 and Part II of Second Schedule. Genl. Acts, Vol. V.

(*describe the road or public place*), by, etc , (*state what it is that causes the obstruction or nuisance*), and that such obstruction (*or* nuisance) still exists;

or

Whereas it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that the same is injurious to the public health (*or* comfort) by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place;

or

Whereas it has been made to appear to me that you are owner (*or* [illegible] in possession of *or* [illegible] (*or* well *or* excavation) adjacent to the public way [illegible] the safety of the public is endangered by reason [illegible] ation) being without a fence (*or* insecurely fenced);

or

Whereas, etc , etc , (*as the case may be*),
I do hereby direct and require you within (*state the time allowed*) to (*state what is required to be done to abate the nuisance*) or to appear at in the Court of on the day of next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc.;

or

I do hereby direct and require you within (*state the time allowed*) to put up a sufficient fence (*state the kind of fence and the part to be fenced*), or to appear, etc ;

or

I do hereby direct and require you, etc , (*as the case may be*)
Given under my hand and the seal of the Court, this day of 18 .
(*Seal*) (*Signature*)

XVII.—Magistrate's Order constituting a Jury.

(*See section 138.*)

Whereas on the day of 18 , an order was issued to (*name*) requiring him (*state the effect of the order*), and whereas the said (*name*) has applied to me, by a [illegible] order appointing a [illegible] do hereby appoint [illegible] nd decide the said [illegible] days from [illegible]

Given under my hand and the seal of the Court, this day of 18 .
(*Seal*) (*Signature*)

XVIII.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY.

(*See section 140.*)

To (*name, description and address*).

I HEREBY give you notice that the Jury duly appointed on the petition presented by you on the day of have found that the order issued on the day of requiring you (*state substantially the requisition in the order*) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (*state the time allowed*), on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

XLV of 1860

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XIX.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY JURY.

(*See section 142.*)

To (*name, description and address*)

WHEREAS the inquiry by a Jury appointed to try whether my order issued on the day of 18 , is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby under the provisions of section 142 of the Code of Criminal Procedure, direct and enjoin you forthwith to (*state plainly what is required to be done as a temporary safeguard*), pending the result of the local inquiry by the Jury

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XX.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE.

(*See section 143.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that, etc., (*state the proper recital, guided by* Form No. XVI or Form No. XXI, *as the case may be*);

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, etc., (*as the case may be*)

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXI.—MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC

(*See section 144.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you are in possession (*or* have the management) of (*describe clearly the property*), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

or

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along

the public street, etc., *(as the case may be)*, and that such procession is likely to lead to a riot or an affray;

or

WHEREAS, etc., etc , *(as the case may be)*;

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land on any part of the said road;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession *(or as the case recited may require)*

Given under my hand and the seal of the Court, this day of 18 .

(Seal) *(Signature)*

XXII.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, ETC, IN DISPUTE

(See section 145)

IT appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between *(describe the parties by name and residence, or residence only if the dispute be between bodies of villagers)* concerning certain *(state concisely the subject of dispute)*, situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said *(the subject of dispute)*, and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said *(name or names or description)* is true,

I do decide and declare that he is *(or they are)* in possession of the said *(the subject of dispute)* and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his *(or their)* possession in the meantime

Given under my hand and the seal of the Court, this day of 18

(Seal) *(Signature)*

XXIII.—WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND, ETC

(See section 146)

To the Police-officer in charge of the Police station at [or, To the Collector of]

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between *(describe the parties concerned by name and residence or residence only if the dispute be between bodies of villagers)* concerning certain *(state concisely the subject of dispute)* situate within the limits of my jurisdiction and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said *(the subject of dispute)*, and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said *(the subject of dispute)* [or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid],

This is to authorize and require you to attach the said *(the subject of dispute)* by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of 18 .

(Seal) *(Signature.)*

XXIV.—Magistrate's Order prohibiting the doing of anything on Land or Water.

(See section 147.)

A dispute having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (*or* water) is claimed exclusively by (*describe the person or persons*), and it appearing to me on due inquiry into the same, that the said land (*or* water) has been open to the enjoyment of such use by the public (*or if by an individual or a class of persons describe him or them*) and (*if the use can be enjoyed throughout the year*) that the said use has been enjoyed within three months of the institution of the said inquiry (*or, if the use is enjoyable only at particular seasons, say* " during the last of the seasons at which the same is capable of being enjoyed ");

I do order that the said (*the claimant or claimants of possession*), or any one in their interest, shall not take (*or* retain) possession of the said land (*or* water) to the exclusion of the enjoyment of the right of use aforesaid, until he (*or* they) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXV.—Bond and Bail-bond on a Preliminary Inquiry before a Police-officer.

(See section 169.)

I (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (*or* on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the abovesaid that he shall attend at , in the Cot
hereafter l
in case of
to forfeit

Dated this day of 18 .

(*Signature.*)

XXVI.—Bond to prosecute or give Evidence.

(See section 170.)

I (*name*), of (*place*), do hereby bind myself to attend at in the Court of at o'clock on the day of next and then and there to prosecute (*or* to prosecute and give evidence) (*or* to give evidence) in the matter of a charge of against one *A. B.*, and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

XXVII.—Notice of Commitment by Magistrate to Government Pleader.

(See section 218)

The Magistrate of hereby gives notice that he has committed one for trial at the next Sessions, and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, etc (*state the offence as in the charge*).

Dated this day of 18 .

(Signature.)

XXVIII.—Charges

(See sections 221, 222, 223)

(I) Charges with one Head

(*a*) I [*name and office of Magistrate, etc*,] hereby charge you [*name of accused person*] as follows .—

On Penal Code, section 121

(*b*) that you, on or about the day of , at , waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court].

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate*]

[*To be substituted for* (*b*)] —

On section 124

(2) That you, on or about the day of , at , with the intention of inducing the Hon'ble *A B*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 161

(3) That you, being a public servant in the Department, directly accepted from [*state the name*], for another party [*state the name*] a gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 166

(4) That you, on or about the day of , at , did [*or* omitted to do, *as the case may be*] such conduct being contrary to the provisions of Act , section , and known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 193

(5) That you, on or about the day of , at in the course of the trial of before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 304

(6) That you, on or about the day of , at , committed culpable homicide not amounting to murder, causing the death of and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 306

(7) That you, on or about the day of , at abetted the commission of suicide by *A B*., a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(8) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 325.

(9) That you, on or about the day of , at , robbed [*state the name*], and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 392.

(10) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 395

[*In cases tried by Magistrates substitute* "within my cognizance" *for* "within the cognizance of the Court of Session," and in (c) omit "by the said Court."]

(II) CHARGE WITH TWO OR MORE HEADS.

(a) I [*name and office of Magistrate, etc.*] hereby charge you [*name of accused person*] as follows :—

(b) *First*—That you, on or about the day of , at knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 241.

Secondly—That you, on or about the day of , at knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(c) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (b)] :—

(2) *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 302 and 304

Secondly—That you, on or about the day of , at , by causing the death of , committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(3) *First*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 379 and 382

Secondly—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

Thirdly—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Fourthly—That you, on or about the day of , at , [illegible] ...ng fear of hurt to a person in order to [illegible] thereby committed an offence punish- [illegible] ...nd within the cognizance of the Court

(4) That you, on or about the day of , in the course of the inquiry into before , stated in evidence that " " and that you, on or about the day of , at , in the course of the trial of , before , stated in the evidence that " ", one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Alternative charges on section 193

[*In cases tried by Magistrates substitute* " within my cognizance " *for* " within the cognizance of the Court of Session " *and in* (c) *omit* " by the said Court."]

(III) Charge for Theft after previous Conviction

I (*name and office of Magistrate, etc*), hereby charge you (*name of accused person*) as follows :—

That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* $\frac{\textit{High Court}}{\textit{Magistrate}}$ *as the case may be*].

[illegible] ed that you, before the com- [illegible] y of , had been [illegible] of an offence [illegible]

And I hereby direct that you be tried, etc.

XXIX.—Warrant of Commitment on a Sentence of Imprisonment or Fine if passed by a Magistrate

(*See sections 245 and 258*)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas on the day of 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No of the Calendar for 18 was convicted before me (*name and official designation*) of the offence (*mention the offence or offences concisely*) under section (*or* sections) of the Indian Penal Code (*or* of Act), and was sentenced to (*state the punishment fully and distinctly*);

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and there carry the aforesaid sentence into execution according to law

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature*)

XXX.—Warrant of Imprisonment on Failure to recover amends by [1][attachment and sale]

(*See section 250*)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*) and the same has been dismissed as [2][false and] frivolous (*or* vexatious), and the order of dismissal awards payment by the

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[1] These words were substituted for the word "Distress" by s. 102 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).
[2] These words were inserted by *ibid*.

said (*name of complainant*) of the sum of rupees as amends; and whereas the said sum has not been paid [*] * * and an order has been made for his simple imprisonment in Jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXI.—Summons to Witness.

(See sections 68 and 252.)

To of .

Whereas complaint has been made before me that has (*or* is suspected to have) committed the offence of (*state the offence concisely with time and place*), and it appears to me that you are likely to give material evidence for the prosecution,

You are hereby summoned to appear before this Court on the
day of next at ...
cerning the matter of
Court; and you are her...
to appear on the said ... ...issued to compel your attendance .

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXII.—Precept to District Magistrate to summon Jurors and Assessors.

(See section 326.)

To the District Magistrate of .

Whereas a Criminal Session is appointed to be held in the Court-house at on the day of next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of Jurors and Assessors furnished to this Court, you are hereby required to summon the said persons to attend at the said Court of Session at 10 A.M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(*Here enter the names of Jurors and Assessors.*)

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXIII.—Summons to Assessor or Juror.

(See section 328.)

To (*name*) of (*place*).

Pursuant to a precept directed to me by the Court of Sessions of requiring your attendance as an Assessor (*or* a Juror) at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (*place*) at ten o'clock in the forenoon on the day of next.

Given under my hand and the seal of office, this day of 18 .

(*Seal.*) (*Signature.*)

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[*] The words "and cannot be recovered by distress of the moveable property of the said (*name of complainant*)" were omitted by s. 162 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

XXXIV.—Warrant of Commitment under Sentence of Death.

(*See section 374.*)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas at the Session held before me on the day of 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. *of the Calendar* at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section *of the Indian Penal Code*, and sentenced to suffer death, subject to the confirmation of the said sentence by the Court of ;

This is to authorize and [illegible] (or Keeper), to receive t [illegible] this warrant, a [illegible] order of this ([illegible]

Given under my hand and the seal of the Court, this day of 18 .
(*Seal*) (*Signature.*)

XXXV.—Warrant of Execution on a Sentence of Death

(*See section 381.*)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas (*name of prisoner*) the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No of the Calendar at the Session held before me on the day *of* , 18 , has been by warrant of this Court, dated the day of , committed to your custody under sentence of death; and whereas the order of the Court of confirming the said sentence has been received by this Court;

This is to authorize and require you, the said Superintendent (*or* Keeper), *to carry* the said sentence into execution by causing the said to be hanged by the neck until he be dead at (*time and place of execution*), and to return this warrant *to the Court* with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of 18 .
(*Seal*) (*Signature*)

XXXVI.—Warrant after a Commutation of a Sentence

(*See sections 381 and 382.*)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas at a Session held on the day of *18* , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of punishable *under* section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody, and whereas by the order of the *Court* of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or as the case may be*);

This is to authorize and requir[illegible] er), *safely to* keep the said (*prisoner's name*) in [illegible] is required, until he shall be delivered over b[illegible] *tody for the* purpose of his undergoing the puni[illegible] order, *or if the mitigated sentence is one of imprisonment, say, after the words,* "custody in the said Jail," "and there to carry into execution the punishment of imprisonment under the said order according to law."

Given under my hand and the seal of the Court, this day of 18 .
(*Seal*) (*Signature*)

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XXXVII.—WARRANT TO LEVY A FINE BY [1][ATTACHMENT] AND SALE.

(*See section 386* [2][(1) (a).]

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS (*name and description of the offender*) was on the day of 18 , convicted before me of the offence of (*mention the offence concisely*), and sentenced to pay a fine of rupees ; and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorize and require you to [3][attach any] moveable property belonging to the said (*name*) which may be found within the district of ; and if within (*state the number of days or hours allowed*) next after [4][such attachment] the said sum shall not be paid (*or* forthwith), to sell the moveable [4][property attached], or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature.*)

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[5][XXXVIIA.—BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE

(*See section 388.*)

WHEREAS I, (*name*), inhabitant of (*place*), have been sentenced to pay a fine of rupees and in default of payment thereof to undergo imprisonment for ; and whereas the Court has been pleased to order my release [6]* * * * on condition of my executing a bond for my appearance [6][on the following date (*or* dates) namely —];

I hereby bind myself to appear before the Court of at O'clock [6][on the following date (*or* dates) namely :—] and in case of making default herein, I bind myself to forfeit to His Majesty the King, Emperor of India, the sum of Rupees .

Dated this day of 19 .

(*Signature.*)

Where a bond with sureties is to be executed, add—

We do hereby declare ourselves sureties for the above named that he will appear before the Court of [6][on the following date (*or* dates) namely :—] and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to His Majesty the King, Emperor of India, the sum of Rupees .

(*Signature.*)]

XXXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(*See section 480.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS at a Court holden before me on this day (*name and description of the offender*) in the presence (*or* view) of the Court committed wilful contempt;

And whereas for such contempt the said (*name of offender*) has been adjudged by the Court to pay a fine of rupees , or in default to suffer simple imprisonment for the space of (*state the number of months or days*);

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[1] This word was substituted for the word "Distress" by s. 162 of the Code of Criminal Procedure (Amend-

[illegible] [illegible]riminal Procedure

[illegible] next" and

(Schedule V.—Forms.)

[illegible] the Superintendent (*or* Keeper) of the said Jail, [illegible] y, together with this warrant, and [illegible] of (*term of imprisonment*), unless [illegible], forthwith to set him at liberty, [illegible] the manner of its execution

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature.*)

XXXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER.

(*See section 485.*)

To (*name and description of officer of Court*)

[illegible]

This is to authorize and require you to take the said (*name*) into custody and him safely to keep in your custody for the space of days unless in the meantime he shall consent to be examined and to answer the question asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature.*)

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE

(*See section 488.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [or his child (*name*), who is by reason of (*state the reason*) unable to maintain herself (*or himself*)] and to have neglected (*or* refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (*or* child) for [illegible] has been further proved th[illegible] failed to pay rupees [illegible] months) of [illegible] simple (*or* rigorous) impris[illegible]

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody in the said Jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant, with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature.*)

XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY [1][ATTACHMENT] AND SALE.

(*See section 488.*)

To (*name and designation of the Police officer or other person to execute the warrant*)

WHEREAS an order has been duly made requiring (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees , and whereas the said (*name*)

[1] This word was substituted for the word "distress" by s. 162 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of ;

This is to authorize and require you to [1][attach any] moveable property belonging to the said (*name*) which may be found within the district of and if within (*state the number of days or hours allowed*) next after [2][such attachment] the said sum shall not be paid (*or* forthwith), to sell the moveable [3][property attached] or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

XLII.—Bond and Bail-bond on a Preliminary Inquiry before a Magistrate.

(*See sections 496 and 499.*)

I (*name*), of (*place*), being brought before the Magistrate of (*as the case may be*) charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge and, should the case be sent for trial by the Court of Session, to be, and appear before the said Court when called upon to answer the charge against me, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

[illegible] severally declare ourselves and each of us) [illegible] hall attend at the Court of [illegible] offence charged against him, and, should [illegible] that he shall be, and appear, before the [illegible] d in case of his making default therein, [illegible] to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature*)

XLIII.—Warrant to discharge a Person imprisoned on Failure to give security.

(*See section 500.*)

To the Superintendent (*or* Keeper) of the Jail at .

(*or other officer in whose custody the person is*)

Whereas (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (*or* sureties) duly executed a bond under section 499 of the Code of Criminal Procedure;

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature*)

[illegible] " by s. 162 of the Code of [illegible]

XLIV.—Warrant of Attachment to enforce a Bond

(See section 514.)

To the Police officer in charge of the Police station at .

Whereas (*name, description and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him;

This is to authorize and require you to attach any moveable property of the said (*name*) that you may find within the district of , by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLV.—Notice to Surety on Breach of a Bond

(See section 514.)

To of .

Whereas on the day of 18 , you became surety for (*name* day of
and
to He said (*name*)
has failed to app e forfeited
the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLVI.—Notice to Surety of Forfeiture of Bond for Good Behaviour

(See section 514.)

To of .

Whereas on the day of 18 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India, and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited;

You are hereby required to pay the said penalty of rupees , or to show cause within days why it should not be paid.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLVII.—Warrant of Attachment against a Surety.

(See section 514.)

To of .

Whereas (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*),

This is to authorize and require you to attach any moveable property of the said (*name*) which you may find within the district of , by seizure and detention; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLVIII.—Warrant of Commitment of the Surety of an Accused Person admitted to Bail.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at .

Whereas (*name and description of surety*) has bound himself as a surety for the appearance of (*state the condition of the bond*) and the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, Empress of India; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the Civil Jail for (*specify the period*);

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody with this warrant and him safely to keep in the said Jail for the said (*term of imprisonment*) and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLIX.—Notice to the Principal of Forfeiture of a Bond to keep the Peace.

(*See section 514.*)

To (*name, description and address*).

Whereas on the day of 18 , you entered into a bond not to commit, etc., (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees , or to show cause before me within days why payment of the same should not be enforced against you.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

L.—Warrant to attach the Property of the Principal on Breach of a Bond to keep the Peace.

(*See section 514.*)

To (*name and designation of Police-officer*), at the Police-station of .

Whereas (*name and description*) did on the day of 18 , enter into a [illegible] etc., [illegible] me [illegible] pon [illegible] to pay the said sum;

Th's is to authorize and require you to attach by seizure moveable property belonging
to ... he district
of ... attached
or ... what you
hav ...

Given under my hand and the seal of the Court, this day of 18 .

(Seal.) *(Signature.)*

LI.—Warrant of Imprisonment on Breach of a Bond to keep the Peace

(See section 514.)

To the Superintendent (*or* Keeper) of the Civil Jail at .

Whereas proof has been given before me and duly recorded that (*name and descrip-* ... whereby ... vhy the ... thereof ... n made ... *term of imprisonment*),

This is to author ... of the said Civil Jail, to receive ... warrant, and him safely to keep in ... *ment*), and to return that warrant ... ecution

Given under my hand and the seal of the Court, this day of 18 .

(Seal.) *(Signature.)*

LII.—Warrant of Attachment and sale on Forfeiture of Bond for Good Behaviour.

(See section 514.)

To the Police-officer in charge of the Police-station at .

Whereas (*name, description and address*) did, on the day of 18 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the* ... the ... reas ... said ...

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(Seal.) *(Signature.)*

LIII.—Warrant of Imprisonment on Forfeiture of Bond for Good Behaviour.

(See section 514.)

To the Superintendent (*or* Keeper) of the Civil Jail at .

Whereas (*name, description and address*) did, on the day of 18 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*), and proof of the breach of the said bond has been given before me and

(Schedule V.—Forms.)

duly recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees , and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*);

This is to authorize and require you, the Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this Warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature.*)



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